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

C.A.(PHC) 149/2009
P.H.C. Colombo HCRA Case No: 129/09

Randeni Archchige Malani
No:09,
Pamunugama Road,
Maharagama

PETIONER APPELLANT

Vs.

1. Officer in Charged,
Police Station,
Maharagama.

2. The Hon. Attorney General,
Attorney General's department,
Colombo 12.

RESPONDENT -RESPONDENT

C.A.(PHC)149/2009   P.H.C. Colombo HCRA Case No: 129/09

BEFORE   :   A.W.A. Salam,J. &
                     Sunil Rajapakshe,J.

COUNSEL   :   Amila Palliyage for the Appellant.
                     Anoopa de Silva SSC. for the respondent.

ARGUED &
DECIDED ON   :   04.11.2013

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A.W.A. Salam,J.

Heard Counsel for the appellant with regard to the appeal. Learned Senior State Counsel was also heard on the appeal. This is an appeal against the judgment dated 10.11.2009 by which the learned High Court Judge refused the application for revision filed against the conviction and the sentence imposed by the learned Magistrate against the Accused-Appellant. The Accused-Appellant stood charge in the Magistrate's Court under Section 214(1) of the Motor Traffic Act read together with Sections 224 and 329 of the Penal Code. As has been rightly conceded by the learned Senior State Counsel, the evidence regarding the identity of the Accused which is a necessary ingredient to be proved beyond reasonable doubt has not been discharged by the prosecution. Further on a perusal of the judgment of the learned Magistrate, it is quite obvious that he has misdirected himself with

regard to the burden of proof, when he made a reference in the judgment that the dock statement made by the Accused needs to be corroborated. In the circumstances, we are of the firm opinion that the impugned judgment cannot be allowed to stand and should be set aside. Accordingly, we set aside the judgment of the learned Magistrate and that of the learned High Court Judge and acquit the accused on all the charges. Appeal allowed.

JUDGE OF THE COURT OF APPEAL

Sunil Rajapakshe,J.

     I agree.

JUDGE OF THE COURT OF APPEAL

Jmr/-