

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

**C. A. Appeal No. 65 - 67/2008**  
HC Kurunegala Case No. 119/99

Democratic Socialist Republic of Sri Lanka

**Complainant**

**Vs.**

1. Rajapaksha Mudiyansele Anuruddha Jayathilaka
2. Edippuli Mudiyansele Erick Lakshman
3. Kuruppuge Nuwan Chaminda Alwis

**Accused**

**AND NOW BETWEEN**

1. Rajapaksha Mudiyansele Anuruddha Jayathilaka
2. Edippuli Mudiyansele Erick Lakshman
3. Kuruppuge Nuwan Chaminda Alwis

**Accused- Appellant**

**Vs.**

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

**Respondent**

C.A. 65-67/2008

H.C. Kurunegala Case No: 119/99

Before : **SISIRA J. DE ABREW,J. (ACTING P/CA) AND  
P.W.D.C. JAYATHILAKA,J.**

Counsel : Ranil Samarasooriya with Manjula

Ranasinghe & Madhawa Wijayasriwardena for  
the 1<sup>st</sup> Accused-Appellant.

Rohan Gamlath for the 2<sup>nd</sup> Accused-Appellant.  
Rohantha Abeysuriya D.S.G. for the A.G.

Decided on : 27.11.2013

\*\*\*\*\*

**Sisira J. de Abrew,J.(Acting P/CA)**

Heard counsel for both parties in support of their respective cases. The Attorney General leveled four charges against all three accused-appellants. The 1<sup>st</sup> charge was a charge of attempted murder to a person named Balasuriya Mudiyansele Jayaratna. The 2<sup>nd</sup> Count was also a Count under Section 300 of the Penal

2 Code ( an attempted murder Count) to a person <sup>named</sup> Balasuriya Mudiyansele Wimalaratne. The 3<sup>rd</sup> Count was also under Section 300 of the Penal Code (an attempted murder Count) to a woman named Wimalawathie. The 4<sup>th</sup> Count was a robbery of Motor Cycle bearing registration No: 143-3177 from the possession of Balasuriya Mudiyansele Jayaratna. Learned trial Judge after trial convicted all three accused-appellants on all four counts. On the 1<sup>st</sup> count the 1<sup>st</sup> accused-appellant was sentenced to a term of 12 years Rigorous Imprisonment and to pay a fine of Rs: 2000/- carrying a default sentence of 6 months imprisonment. Same punishment was imposed in respect of the 2<sup>nd</sup> and 3<sup>rd</sup> counts on the 1<sup>st</sup> accused-appellant. On the 4<sup>th</sup> count 1<sup>st</sup> accused-appellant was sentenced to a term of 7 years Rigorous Imprisonment and to pay a fine of Rs: 2000/- carrying a default sentence of 6 months imprisonment. Learned High Court Judge directed that the 12 year term of imprisonment imposed on the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Counts should run concurrently and 7 year Rigorous Imprisonment imposed on the 4<sup>th</sup> Count should run consecutively . The 2<sup>nd</sup> accused, on the 1<sup>st</sup> Count was sentenced to a term of 8

years Rigorous Imprisonment and to pay a fine of Rs: 2000/- carrying a default sentence of 6 months imprisonment.

Same punishment was imposed in respect of the 2<sup>nd</sup> and 3<sup>rd</sup> Count on the 2<sup>nd</sup> accused-appellant. The 2<sup>nd</sup> accused-appellant, on the 4<sup>th</sup> Count, was sentenced to a term of 5 years Rigorous Imprisonment and to pay fine of Rs: 2000/- carrying a default sentence of 6 months imprisonment.

Learned High Court Judge directed that the term of imprisonment imposed on the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Counts should run concurrently but the term of 5 years Rigorous Imprisonment imposed on the 4<sup>th</sup> Count should run consecutively. The 3<sup>rd</sup> accused-appellant, on the 1<sup>st</sup> Count, was sentenced to a term of 10 years Rigorous Imprisonment and to pay a fine of Rs: 2000/- carrying a default sentence of 6 months imprisonment. In respect of the 2<sup>nd</sup> and 3<sup>rd</sup> Counts, same punishment was imposed on the 3<sup>rd</sup> accused-appellant. The 3<sup>rd</sup> accused, on the 4<sup>th</sup> Count, was sentenced to a term of 7 years Rigorous Imprisonment and to pay a fine of Rs: 2000/- carrying default sentence of 6 months

✓ imprisonment. Learned High Court Judge directed <sup>that</sup> the term of imprisonment imposed on the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Counts should run concurrently but the term of 7 years imprisonment imposed on the 4<sup>th</sup> Count should run consecutively.

Mr. Samarasooriya appearing for the 1<sup>st</sup> accused-appellant and Mr. Gamlath appearing for the 2<sup>nd</sup> and 3<sup>rd</sup> accused-appellants make an application to withdraw the appeal and implement the sentence from the date of conviction. They also make an application to direct that the term of imprisonment imposed on the 4<sup>th</sup> Count should run concurrently with the terms of imprisonment imposed on the 1<sup>st</sup> and 2<sup>nd</sup> and 3<sup>rd</sup> Counts. Learned D.S.G. has no objections to this application.

We allow the application to withdraw the appeal. We direct that term of imprisonment imposed on 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Counts should run concurrently in respect of all three accused. We also direct that the sentence should be implemented from the date of sentencing by the learned High Court Judge. Learned High Court Judge is directed to issue a fresh committal. The fines

imposed by the learned High Court Judge remain unaltered. If the fines are not paid, the default sentences should be implemented in addition to the term of imprisonment imposed on the 1<sup>st</sup> to 4<sup>th</sup> Counts. We direct the learned High Court Judge of Kurunegala to issue a fresh committal indicating the directions given by this Court. Appeal of the appellants are dismissed.

*Appeal dismissed.*

ACTING PRESIDENT OF THE COURT OF APPEAL

P.W.D.C. Jayathilaka,J.

I agree.

JUDGE OF THE COURT OF APPEAL

Jmr/-