

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

1. Uduma Lebbe Ameer,
2. Najeem (deceased)
3. Adambawa Paleel
4. Anwar Thambi

Accused-Appellants

Vs.

The Attorney General,

Respondent

C.A. 118-119/2010

H.C. Kalmunai Case No: 22/2008

Before : Sisira J. de Abrew, J. (Acting P/CA) &  
P.W.D.C. Jayathilaka, J.

Counsel : Dr. Ranjit Fernando with Ms. Samantha Rajapakshe  
for the Accused-Appellants.  
Ms. A. Jinasena DSG. for the A.G.

Argued &

Decided on : 29.01.2014

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

Heard both counsel in support of their respective cases. The accused-appellants in this case were convicted for the offence of house trespass which is an offence punishable under section 436 of the Penal Code. They were also convicted of the offence of robbery which is an offence punishable under Section 383 of the Penal Code. On the count under Section 436 of the Penal Code, they were sentenced to a term of 10 years Rigorous Imprisonment and to pay a fine of Rs: 10,000/- carrying a default sentence of one year Rigorous Imprisonment. On the charge of robbery they were sentenced to a term of 10 years Rigorous Imprisonment and to pay a fine Rs:15000/- carrying a default sentence of two years Rigorous Imprisonment. The learned trial Judge directed that both terms of imprisonment should run consecutively. Being aggrieved by the said conviction and the sentences they have appealed to this Court. Learned counsel appearing for the accused-appellant submits that he does not challenge the conviction. He only makes an application to set aside the direction of the learned trial Judge wherein he directed that both terms of imprisonment should run consecutively. According to the facts of this case, the accused-appellants have entered the house of the complainant and robbed jewellery worth Rs:38,000/- and Rs: 2000/-. When we consider the offence that they have committed, we feel a term of 20 years ( on both counts ) will be highly excessive. We therefore direct that both terms of imprisonment on the Count under Section 436 and on Count under Section 383 of the Penal

Code should run concurrently. This direction is applicable to all the accused-appellants. Learned Trial Judge is directed to issue a fresh committal indicating the direction of this court. Uduma Lebbe Ameer (the 1<sup>st</sup> accused) and Adambawa Paleel (the 3<sup>rd</sup> accused) are present in Court. Najeem is dead. The 4<sup>th</sup> accused Anwar Thamby has been tried in absentia. Both Uduma Lebbe Ameer and Adambawa Paleel are present in Court produced by the Prison Authorities. We direct the Prison Authorities to implement the sentence imposed on the 1<sup>st</sup> and the 3<sup>rd</sup> accused from the date of sentencing by the learned trial Judge. The direction to implement the sentence from the date of sentencing will not be applicable to the 4<sup>th</sup> accused appellant (Anwer Thambi) who has been tried in absentia. Subject to the above variation, of the sentence, the appeals of the appellants are dismissed.

*Appeal dismissed.*

Acting President of the Court of Appeal

P.W.D.C. Jayathilake, J.

I agree.

Judge of the Court of Appeal

Jmr/-