

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

C.A. (PHC) APN No. 138/2012
H.C. Kandy No. 243/2011

Hon. Attorney General
Attorney General's Department
Colombo 12

Complainant

Vs.

1. Balasubramaniam Joseph Peter
Poorwarama Road,
Kirulapone
Colombo 05

2. Atapattu Mudiyanseilage Danapala
178, Kirinda
Pahulwella.

Accused

C.A. (PHC) APN No. 138/2012 - H.C. Kandy No. 243/2011

Before : **K. T. Chitrasiri, J &
W.M.M. Malinie Gunarathne, J.**

Counsel : Haripraya Jayasundera D.S.G. for the
Complainant-Petitioner.
Amila Palliyage for the 2nd Accused-Respondent.

Argued &

Decided on : 02.09.2014.

K. T. Chitrasiri, J.

Learned D.S.G. submits that the learned High Court Judge was in error when he converted the fine imposed on the 2nd accused-respondent, to make it a crown cost. Learned Counsel for the 2nd accused-respondent too, concedes that it is not legal to have converted the fine into crown costs.

Learned High Court Judge in Kandy by his order dated 12th September, 2012 has imposed a fine on the 2nd accused-respondent a sum amounting to ~~of~~ Rs. 45,000/- carrying a default sentence of two years rigorous imprisonment. Having imposed a fine, upon considering the submissions made on behalf of the 2nd accused-respondent, the

learned High Court Judge decided to levy a crown cost in lieu of the fine imposed on the 2nd accused-respondent.

Section 306 (3) (II) of the Criminal Procedure Code stipulates that State costs can be imposed only up to a sum of Rs. One Thousand Five Hundred (Rs. 1500/-) In this instance crown costs amount of Rs. 45,000/- had been imposed which exceeds Rs. 1,500/-.

Therefore the decision to impose a crown cost ^අRs. 45,000/- is unlawful. Accordingly, we set aside the order imposing crown costs amounting ^අRs. 45,000/- . Hence the fine of Rs. 45,000/- imposed on the 2nd accused-respondent for the committing of offence of Trafficking and Possession of Cannabis under Poison Opium and Dangerous Drugs Ordinance Act No. 13 of 1994 is to stand as it is.

The Registrar is directed to remit the record with this order to the High Court in Kandy enabling the learned High Court Judge to take necessary steps.

Application allowed.

JUDGE OF THE COURT OF APPEAL

M.M.M. Malinie Gunarathne, J.

I agree.

JUDGE OF THE COURT OF APPEAL

/mds