

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

**Court of Appeal No.CA 202/2011**

High Court (Vavuniya) No.2031/2009

Anesh Pradeep Kumar alias Jeewan  
No.1,  
Karapinchakulam,  
Maharabaikulam,  
Vavuniya.

**Accused-Appellant**

**Vs**

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

**Complainant-Respondents**

CA 202/2011

HC-Vavuniya-2031/09

Before : **Anil Gooneratne, J &**  
**P.R. Walgama, J.**

Counsel : D.Karunarathne for the Accused  
Appellant  
S. Thurairajah, DSG for  
Complainant-Respondent

Argued &  
Decided on : 30.10.2014

**Anil Gooneratne, J.**

The accused appellant was indicted in the High Court of Vavunia for possession of a hand grenade, an offence punishable under regulation 36 (1) read with 36 (5) of the Emergency Regulations contained in Gazette Notification bearing No. 1405/14 of 13.08.2005. The learned counsel for the Accused Appellant submitted that his client is an epilepsy patient.

It was his position that on the date of the incident whilst walking towards the mother's house to handover some cash the accused appellant suffered from epileptic fits. As

such learned counsel for the appellant denies and reject the charge preferred against him.

Learned Deputy Solicitor General who appears for the Complainant Respondent submits to this court that he is unable to support the conviction for the following reasons.

1. The alleged bomb which is the subject matter of this case which was collected at a certain point and handed over to the Government Analyst, and required to be led in evidence, in a chain of evidence has not been considered by the learned High Court Judge.

2. It was also the learned Deputy Solicitor General's position that it is necessary to have a proper order as regards the diffusion of the bomb. Such an order has not been obtained.

Having perused the evidence led before the High Court there is a necessity for the learned Magistrate to make an order as regards the diffusing of the bomb.

It has been brought to the notice of Court that no such order has been made by the learned Magistrate and as such

the prosecution could not have proved this case beyond reasonable doubt.

We have considered the submissions of both counsel. We are satisfied that the case of the prosecution has not been proved in the trial court beyond reasonable doubt, based on the above two lapses highlighted by the learned Deputy Solicitor General. In the circumstances we proceed to set aside the conviction and sentence of the learned High Court Judge and we proceed to acquit the accused-appellant accordingly.

Accused Appellant acquitted.

**JUDGE OF THE COURT OF APPEAL**

**P.R. Walgama, J.**

I agree.

**JUDGE OF THE COURT OF APPEAL**

LA/-