

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

**C.A. CASE NO: 291/2009**

HC COLOMBO CASE NO: 1697 /04

S.D. Thushara Pradeepika Jayasuriya Fernando

Brahmanage Ranjith Perera

Sinhala Pedilage Dinesh

Pushpakumara Abeysinghe

**Accused-Appellants**

**Vs.**

Attorney General  
Attorney General's Department,  
Colombo 12.

**Respondent**

**C.A. No. 291/2009**

**H.C.Colombo Case No. 1697/2004**

**BEFORE** : VIJITH K. MALALGODA, PC.J (P/CA) &  
A.H.M.D. NAWAZ, J.

**COUNSEL** : A.K.Chandrakantha, Assigned Counsel for  
the 2<sup>nd</sup> Accused-Appellant

**DECIDED ON** : 21<sup>st</sup> August 2015

**VIJITH K. MALALGODA, PC.J (P/CA)**

Accused-appellant is present in Court produced by the  
Prison authorities.

There are two accused-appellants in this case and out  
of them the 2<sup>nd</sup> accused-appellant is represented By Mr.  
Chandrakantha, the assigned Counsel. On 6<sup>th</sup> August 2015, this  
Court has received a letter from the Prison Authorities informing  
that the 2<sup>nd</sup> accused-appellant has already served the sentence on  
11<sup>th</sup> May 2015. In the said letter the Prison Authorities have  
further informed that they have been informed by the High Court  
that since the accused-appellant had withdrawn the appeal, on  
30<sup>th</sup> April 2010 the Prison Authorities have converted his remand  
period to a jail term since then. However, when going through the  
records, we find that neither this Court nor the High Court had  
permitted the 2<sup>nd</sup> accused-appellant to withdraw this appeal.

However, at this stage the learned assigned Counsel for the 2<sup>nd</sup> accused-appellant informs that he has instructions from the 2<sup>nd</sup> accused-appellant to withdraw this appeal. Considering the circumstances of this case and also the fact that he has served his term already imposed since 30<sup>th</sup> April 2010 we decide to permit the 2<sup>nd</sup> accused-appellant to withdraw this appeal. The learned Counsel for the 2<sup>nd</sup> accused-appellant at this stage makes an application under Section 359 of the Criminal Procedure Code to back date the sentence. After considering the circumstances of this case, we make order to implement the sentence in this case from the date of conviction i.e. from 9<sup>th</sup> December 2009. Subject to the above variation, we dismiss this appeal

Appeal is accordingly, dismissed with regard to the 2<sup>nd</sup> accused-appellant, Brahmanage Ranjith Perera. This matter is already fixed for argument on 30<sup>th</sup> September 2015. That date to stand with regard to the other accused-appellants.

PRESIDENT OF THE COURT OF APPEAL

**A.H.M.D. NAWAZ, J.**

I agree.

JUDGE OF THE COURT OF APPEAL

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