

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

C.A 85-90/2014

H.C Nuwara-Eliya Case No: 126/2010

W.H.M. Sisira Kumara
Nildanda Hinna.

Appellant

Vs.

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

Respondent

C.A 85-90/2014

H.C Nuwara-Eliya Case No:126/2010

Before : Vijith K. Malalgoda PC J. (P/CA) &
H.C.J. Madawala, J.

Counsel : Gamini Hettiarachchi for the 1st, 4th, 7th, and 8th Accused-
Appellants.

Nihara Randeniya with S.Jayasinghe for the 5th Accused-
Appellant.

P.Kumararathnam D.S.G. for the Respondent.

Argued &
Decided on : 06.08.2015.

Accused-Appellants are present in Court produced by the
Prison Authorities.

Vijith K. Malalgoda PC J (P/CA).

At this stage the parties brings to the notice of this court that according to the case record and the journal entries, there is no indication that the accused had been given jury option under section 195 (e) (e) of the Code of Criminal Procedure Act No: 15 of 1979. This court as well as the Supreme Court in several instances had repeatedly decided that non granting the jury option to the accused is not a mere irregularity but is an illegality that vitiate

all proceedings. Therefore we set aside the conviction and sentence imposed by the High Court Nuwara-Eliya and order a re-trial. Learned High Court Judge is further directed to conclude this matter expeditiously since the offence pertaining to this indictment has been committed in the year 1994.

PRESIDENT OF THE COURT OF APPEAL

H.C.J. Madawala, J.
I agree.

JUDGE OF THE COURT OF APPEAL.

Vkg/-