

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

In the matter of an Application for  
Revision under and in terms of Article 138 of  
the Constitution of the Democratic Socialist  
Republic of Sri Lanka read with Section 365  
of the Code of Criminal Procedure Act No.  
15 of 1979.

**CA (PHC)APN 48/2016  
H.C. Kuliyaipitiya Case No-36/2015**

Democratic Socialist Republic of  
Sri Lanka.

Vs.

Kalubowilage Nishantha Perera

**Accused**

**And Between**

Thuduhelage Indrani,  
No. 370/02, Nawagamuwa, Ranala.

**Petitioner**

Vs.

1. The Hon. Attorney general,  
Attorney General's Department,  
Colombo 12.

**Respondent**

**Before : H.C.J. Madawala , J  
&**

**L.T.B. Dehideniya, J**

Counsel : Suranga Bandara for the Petitioner  
Varunika Hettige DSG for the Respondent

Written Submissions on : 29 /03 /2017

Decided On : 31 / 03 /2017

## **Order**

**H. C. J. Madawala , J**

This Revision Application has been filed to set aside the order of the Learned High Court Judge of Kuliypitiya dated 8/2/2016 and to enlarge suspect on bail. The Accused Kalubowilage Nishantha Perera was indicted in the High Court of Kuliypitiya on the 12<sup>th</sup> August 2015 under section 380 and 383 read with section 32 of the Penal Code. The Accused was totally unaware of this charge because the police has not recorded any statement from the Accused of the incident set out in the indictment and identification parade was held on 28/7/2011 and one witness identified the Accused as the person who pull out two rings from the witness having pointed a knife. The witness had not mentioned in his statement to the police that such an incident took place in the course of the main transaction.

On 10/12/2015 when the Accused was brought to court the indictment was served on him and the Accused was enlarged on bail by the Learned High Court Judge in sum of Rs.25,000/-with two sureties worth Rs.500,000/-each.

On 08/02/2016 the Learned High Court Judge cancelled the existing order as the Accused had 13 previous convictions and pending cases. Being aggrieved by the said order 08/02/2016 the Petitioner who is a mother of the above Accused named Kalubowilage Nishantha Perera moved that this court, be pleased to act in revision and set aside the said order on the following exceptional grounds,

- The Learned High Court Judge totally disregarded the provision set out in the section 14, 16 and the section 17 of the Bail Act.

When this matter came up for argument on 28/02/2017 the Learned DSG V.Hettige Counsel for the Respondent raised a preliminary objections as to the locus standi of the appeal. Both parties were directed to file their written submissions and the order is due on 31/03/2017.

Written submissions has been submitted by the Respondent and the Petitioner has failed to file his written submissions. The Learned DSG appearing for the Respondent raised in the preliminary objections that the Petitioner has no locus standi to maintain this revision application as she is not the aggrieved party. A revision application can only be maintain by the aggrieved party. We have perused the supporting authority submitted by the Learned DSG for the Respondent. Namely,

**In the case of *Senatileke Vs. Attorney General and Another* 98 3 SLR 290 His Lordship Justice F.N.D. Jayasuriya with his Lordship Justice Kulatillake held that;**

“The father of the Accused has no locus standi to maintain the revision application.”

**In the case of *Savarimuttu Loganathan Vs. Attorney General* CA(PHC)APN 37/2014 His Lordship Justice L.T.B. Dehideniya was held that;**

“...I hold that the mother of the Accused has no locus standi to institute this revision application.”

In the case of **M.P. Piyseeli Vs. Attorney General CA(PHC) 18/2009 His Lordship Justice A.W. Abdus Salam** it was held:

“....that the mother of the Accused has no locus standi to prefer a revision application on behalf of the son.”

In the case of **E.G Roshan Fernando Vs. Attorney General CA(PHC) APN 101/13 His Lordship Justice L.T.B. Dehideniya** it was held;

“.... Since he has no locus standi to make the original application, this revision application fails.”

Accordingly we hold that the mother of the Accused has no locus standi to prefer this revision application on behalf of the son of the Accused.

We see no reasons as to why we should interfere with the order of the Learned High Court Judge. Accordingly we dismiss this Revision Application with state costs of Rs.5000/-.

**Judge of the Court of Appeal**

**L.T.B.Dehideniya, J**

**I agree.**

**Judge of the Court of Appeal**