

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

**CA/MC-RV/11/2016**

Ranaweera Arachchige Merelin Markus

**Petitioner**

**Vs.**

Hon Attorney General  
Attorney General's Department  
Colombo 12.

**Respondent**

**C.A /MC/RV/11/2016**

**Before** : P.R.Walgama, J (P/CA) &  
S.Thurairaja, PC J.

**Counsel** : K.Thiranagama for the Petitioner.  
Varunika Hettige DSG for the Respondents.

**Decided on:** 22.05.2017

**S.Thurairaja, PC J.**

Heard Counsel in support of this application. Court finds in the Magistrate Court of Kesbewa Case No: 73224, the learned Magistrate has imposed two years for the theft and two years for retention of stolen property and both two run consecutively. Under the Magistrate Court the sentence is improper therefore this Court revise the same as follows: Two years rigorous imprisonment imposed for theft and sentence on the alternative count 396 is removed hereby. Therefore, the convict would be serving two years rigorous imprisonment sentence in this case.

In the next case Magistrate Court of Kesbewa in Case No: 73220 and in the Magistrate Court Kesbewa 73226 learned Magistrate has imposed one year each for theft and retention of stolen property. Since the retention of stolen property is alternate count this court revise the order and removes the conviction and sentence under section 396. Accordingly the convict serves only one year in case No: 73226. Magistrate Court of Kesbewa in Case No: 74786 similar order is given namely, the accused was found guilty on 367 for theft and under Section 396 for retention of stolen property count, alternate count. This court when was the sentence imposed under section 396 accordingly the suspect in Case No: 74786 will serve on two years There is no revision in 73225, 73223, 73221, 73222, 74785, 74786.

In case No: 87627 M.C. Kesbewa Case No: 87627 the Magistrate has imposed three months for an offence committed under Section 183 and two years for an offence committed under 314 two years for an offence under Section 221 and 21(1) for an offence committed under 410 of the Penal Code. The total becomes six years which is in excess of the jurisdiction of the Magistrate. Hence this Court revise the order made under Section 314 and 221 of the Penal Code imposes two years R.I each and makes order to run concurrently. Therefore in Case No 87627 the suspect will serve four years R.I. and Prison Authorities to be informed accordingly.

Registrar is directed to send a copy of this order to the Superintendent of Prisons Welikada.

**JUDGE OF THE COURT OF APPEAL.**

**P.R. WALGAMA, PC J.**

I agree.

**PRESIDENT OF ~~THE~~ COURT OF APPEAL**

Vkg/-