

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

Court of Appeal case no : CA HC 46/2016

A.R.P.Kumara
125/2,
Sirinaga Mawatha
Thibolketiya
Colambage Ara

Complainant

Vs.

Hon Attorney General
Attorney General's Department
Colombo 12

Respondents

CA 46/2016. High Court of Embilipitiya Case No:HC 106/2013

Before : S.Devika De L Tennakoon J &
S.Thurairaja, PC J.

Counsel : Nimal Muthukumarana for the Accused –Appellant.
H.I. Peiris D.S.G for the Respondent.

Decided on : 13.10.2017.

S. Thurairaja, J.

Accused –Appellant is present in Court produced by the Prison Authorities and the counsel for the accused –appellant moves court that he has instructions from the accused appellant to withdraw the appeal. On the request of the counsel, we asked from the accused appellant of his stance. He confirms, the instructions given to the counsel. The Learned Deputy Solicitor General has no objection of withdrawal of the appeal. The learned counsel for the accused appellant makes an application under Section 359 and 328 of the Criminal Procedure Code to the effect, that there is a punishment for the first count three years and the second count ten years rigorous imprisonment. Since, that it had happened in the same cause of transaction, he move that the sentence to run concurrently. Further he submits that the accused appellant was in remand from the date of conviction therefore the sentence be implemented from the date of conviction. Learned D.S.G has no objection for this application. Accordingly the court orders as follows :-

Sentence imposed on the first and second counts to be implemented together namely three years rigorous imprisonment and the 10 years

rigorous imprisonment to be operated concurrently. Since he is in remand from the date of conviction the sentence to be operative from the date of conviction. All the other conditions in the said order will remain as it is.

The Prison Authorities is hereby directed to implement the sentence imposed on the first and the second counts simultaneously from the date of conviction namely 28.04.2016.

Registrar is hereby directed to forward the case record to the Registrar of High Court of Embilipitiya to implement the sentence.

Withdrawal is allowed and the appeal is dismissed.

JUDGE OF THE COURT OF APPEAL.

S.Devika de L Tennakoon , J

I agree.

JUDGE OF THE COURT OF APPEAL.

Vkg/-.