

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

In the matter of an application for transfer under and
in terms of section 46 of the Judicature Act.

CA/TR no. 15/2017

High Court Embilipitiya case no. 1/2016, 3/2016

The Attorney General

Complainant

Vs.

1. Hettiarachchige Jayaweera
2. Pinnakanda Arachchige Punchi Menike

Accused

Now Between

Hettiarachchige Jayaweera

1st Accused Petitioner

Vs.

The Attorney General

Complainant Respondent.

Pinnakanda Arachchige Punchi Menike

2nd Accused Respondent

Before : L.T.B. Dehideniya J. (P/CA)

: Shiran Gooneratne J.

Counsel : Niranjan Jayasinghe for the 1st Accused Petitioner.

: Indika Kumarasinghe for the 2nd Accused Respondent
Respondent.

Shanaka Wijesinghe DSG for the Attorney General

Argued on : 07.11.2017

Decided on : 09.11.2017

L.T.B. Dehideniya J. (P/CA)

This is an application to transfer two connected cases from the High Court of Embilipitiya on the basis of bias shown by the learned High Court Judge. The Petitioner complains that he was denied a fair trial by the attitude adopted by the learned High Court Judge.

We considered the proceedings taken place before the High Court and the affidavit submitted by the Defence Counsel. On the face of the application, we observe that the Petitioner has shown a reasonable cause of distress on his part in hearing these two cases by the presiding Judge.

We are of the view that this is a proper case to issue an interim order staying further proceeding until final determination of this application.

Accordingly, we make an interim order as prayed for in the paragraph (b) of the prayer to the petition staying proceeding in case nos. HCE 1/2016 and HCE 3/2016 held in the High Court of Embilipitiya until final determination of this application.

Further, we issue notice on the Respondents.

President of the Court of Appeal

Shiran Gooneratne J.

I agree.

Judge of the Court of Appeal