

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

Court of Appeal case no : CA HC 132-136 / 2016

Sangiliwell Rajashiwa

Ramboda

Perattasiwattha

Kothmale

Petitioner

Vs.

Hon Attorney General

Attorney General's Department

Colombo 12

Respondents

C. A No.132-136/2016

H.C. Vavuniya No.1981/2007

Before : S.Devika de L. Tennekoon , J. and
S.Thurairaja, PC. J.

Counsel : Nihara Randeniya for the 1st ,2nd and 3rd
Accused-Appellants.
Gayan Perera for the 4th and 5th Accused-
Appellants.
Jude Nanayakkara S.S.C. for Respondent.

Decided on : 03.10.2017

S.Thurairaja, P C J.

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

Mr. Gayan Perera who is appearing for the 4th and 5th Accused-Appellants moves Court that he may be permitted to withdraw the appeal of his clients namely the 4th and 5th Accused-Appellants and makes an application under Section 359 of the Criminal Procedure Code to back date the sentence from the date of conviction.

Senior State Counsel who is appearing for the Attorney - General informs Court that the brief is in Tamil, therefore he is waiting for the official translation of the brief and he submits that he cannot assist the Court regarding the backdating the sentence. On the request of the Counsel this Court inquired from the 4th and 5th Accused-Appellants whether they want to withdraw the appeal. The Accused - Appellants on questioning in Sinhala, confirm and submit to Court that they want to withdraw the appeal. Considering the application of the Accused-Appellants we act under Section 359 of the Criminal Procedure Code and allow the withdrawal of the appeal.

Regarding the observation and the objections raised by the Senior State Counsel, we observed that these Accused-Appellants were convicted on 03/8/2016 and sentenced to 03 years Rigorous Imprisonment and this brief was waiting for translations. Court is mindful of the waiting period for the translations. Therefore, we act under Section 328 and the fact that the Accused-Appellants were in custody from the date of conviction, we decided to implement the sentence from the date of conviction.

We direct the Prison Authorities to implement the sentence from the date of conviction namely 03/08/2016. Subject to the implementation of the

sentence the appeal against the 4th and 5th Accused- Appellants are dismissed.

Registrar is hereby directed to attend to the translations.

Mention this matter on 23/02/2018 to check the translations regarding 1st, 2nd and the 3rd Accused-Appellants.

JUDGE OF THE COURT OF APPEAL

S.Devika de L. Tennekoon,J.

I agree.

JUDGE OF THE COURT OF APPEAL

WC/-