

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

**Court of Appeal**

**Revision Application No –**

**CA (PHC) APN 08/21**

Revision No – RA 564/2020

High Court of Galle

Magistrate Court No. - 78502

Magistrate Court of Beddegama

In the matter of an Application  
for revision under Article 138 of  
the Constitution of the  
Democratic Socialist Republic of  
Sri Lanka.

Officer in Charge,

Police Station,

Waduramba.

**COMPLAINANT**

**-Verses-**

1. Mohomed Ansar

2. Mohammed Rafthan

**ACCUSED**

**AND THEN**

Ranjith Paul Perera,

No. 02/360,

Hiribura Road,

Dangedara, Galle.

**REGISTERED OWNER**

**-Verses-**

Officer in Charge,  
Police Station,  
Waduramba.

**COMPLAINANT-RESPONDENT**

**AND BETWEEN**

Ranjith Paul Perera,  
No. 02/360,  
Hiribura Road,  
Dangedara, Galle.

**REGISTERED OWNER -  
PETITIONER**

**-Verses-**

Hon. Attorney General,  
Attorney General Department,  
Colombo 12.

**RESPONDENT**

**AND NOW BETWEEN**

Ranjith Paul Perera,  
No. 02/360,  
Hiribura Road,  
Dangedara, Galle.

**REGISTEREDOWNER-PETITIONER**  
**- PETITIONER**

**-Verses-**

1. Hon Attorney General  
Attorney General Office  
Colombo 12
2. Officer in Charge  
Police Station  
Waduramba.

**RESPONDENTS – RESPONDENTS**

Before – Menaka Wijesundera J.

Neil Iddawala J.

Counsel – Kasun Liyanage for the

Petitioner.

Supported on – 24 / 02 / 2021

Order on – 03 / 03 / 2021

**MENAKA WIJESUNDERA J.**

The instant application for revision is filed in order to revise the order of the learned High Court Judge dated 4<sup>th</sup> of August 2020.

In the instant application the petitioner is seeking notices to canvass this application before this court. It is well settled law that when an application for revision is filed the petitioner has to satisfy this court that there are exceptional circumstances which shocks the consciousness of this court in the impugned order. The provisions relating to revision has been discussed in chapter xxxix of the Code of Criminal Procedure Code Act no 15 of 1979 and applies,

According to section 364 of the Code of Criminal Procedure Act, No.15 of 1979 the three aspects which a Court could consider in revisionary proceedings have been specified. They are

- I. Legality of any order,
- II. Propriety of any sentence order and
- III. Regularity of the proceedings of such Court.

This had been discussed in Attorney General Vs Ranasinghe and others 1993 (2) Sri. L .R.81.

In the instant application the petitioner had claimed a vehicle bearing no SPHO 7247 which was taken into custody upon transporting cattle without a valid permit and thereby violating the Animals Act. The driver of the said vehicle who was in employment under the petitioner had

pleaded guilty to the offence and upon the claim of the petitioner the vehicle inquiry had been held under the provisions of the act.

Under the provisions of the Animals Act a vehicle which is used for illegal purposes upon conviction can be confiscated but the owner can make a claim even if he is a third party. But at the inquiry the learned Magistrate has held that the Animals Act has not defined the word owner therefore as it is a vehicle which is in question the definition in the Motor Traffic Act has to be relied upon, according to same the petitioner at the time of the offence was not the registered owner of the vehicle.

The position of the petitioner concedes this, but he goes on to say that he had paid Rs 3 million to the owner namely Gunawathie and the vehicle was to be transferred to him. According to the evidence of the registered owner at the inquiry the vehicle had been transferred in the name of the owner after the offence was committed.

The term owner in a vehicle confiscation inquiry had been considered at length by His Lordship Aluvihare J in SC (SPL) LA 181/11 and has held that the owner according to the provisions of the Motor Traffic Act section 16 is that,

*“Any person who for the time being is **the registered owner**, shall for the purpose of any proceedings under this Act, be **deemed to be the owner** of that motor vehicle”*

*(Emphasis added)*

The learned High Court Judge and the Magistrate in their respective orders had considered the same.

Therefore in view of the judgment quoted above by his Lordship Aluvihare J, it is settled law who a registered owner is, and the petitioner at the time of the offence had not been the REGISTERED OWNER. The learned High Court Judge and the Magistrate had considered that and had dismissed his application.

Therefore upon consideration of the above this court sees no illegality or exceptionality which shocks the conscious of this court in the order of the learned High Court Judge to issue notice in this matter. Hence notices are hereby refused.

**Judge of the Court of Appeal.**

I agree

Neil Iddawala J.

**Judge of the Court of Appeal.**