

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

In the matter of an application for appeal under article 138 of the constitution of the democratic socialist republic of Sri Lanka and Section 331 of the Code of Criminal Procedure Act No.15 of 1979.

CA/HCC/53/2021

The Democratic Socialist Republic of Sri Lanka

High Court of Negombo Case No: Complainant

HCC765/2021

Vs.

Santhanam Devage Nandasiri Silva Alias Nande
No.95/08,
Ferguson's Road,
Colombo - 14.

Accused

And Now

Santhanam Devage Nandasiri Silva Alias Nande
No.95/08,
Ferguson's Road,
Colombo - 14.

Accused-Appellant

Vs.

Hon. Attorney General,
Attorney General's Department
Colombo – 12.

Respondent

Before : **Hon. Justice Menaka Wijesundera**
Hon. Justice B. Sasi Mahendran

Counsel : Sanjith Senanayake with Upul Dissanayake
for the Accused-Appellant.
Ridma Kuruwita, SC for the Respondent.

Argued &

Decided on : 16.05.2023

Hon. Justice Menaka Wijesundera

Accused – Appellant is produced in Court via zoom platform by the Prison Authorities.

The instant appeal has been filed to set aside a judgment dated 06.08.2021, by the High Court of Colombo.

In the instant matter the Accused-Appellant has been indicted for possession and trafficking of 1.33 grams of heroin in two separate charges. At the end of the trial the learned Trial Judge had found him guilty of both offences and had proceeded to sentence him, and for the 1st charge a fine of Rs. 250,000/- in default two years imprisonment and ten years rigorous imprisonment, for the 2nd charge the same as above and the two sentences of imprisonment to run consecutively.

When the matter was taken up for argument the Counsel appearing for the Accused-Appellant stated that he is not contesting the conviction but only the sentence. The learned Counsel for the Respondent did not object for the application as such Court heard both counsel in mitigation.

Upon considering the submissions of both parties, we are of the opinion that the sentence of rigorous imprisonment of ten years to be reduced to seven years rigorous imprisonment and the sentence for 1st charge to remain the same and both to run concurrently from the date of sentencing which is 06.08.2021.

The rest of the sentences to remain the same with regard to the 1st and the 2nd charges. Subject to the above the instant application is dismissed.

Judge of the Court of Appeal

Hon. Justice B. Sasi Mahendran

I agree.

Judge of the Court of Appeal

Na/-