

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

In the matter of an appeal in terms of Section 331(1) of the Code of Criminal Procedure Act No: 15 of 1979 read with Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Court of Appeal

Case No: HCC-0089-090-18

1. H.M. Anura Herath,
"Ashoka", Havanpalassa,
Nikawaratiya.

High Court of Colombo Case

No: HCB 2036/2014.

2. J.K. Udayantha Chandana Perera,
No: 33, 8th Post, Aralaganvila,
Polonnaruwa.

Accused –Appellants.

Vs.

Commission to Investigate Allegations of Bribery
or Corruption,

No: 36, Malalasekara Mawatha, Colombo 7.

Complainant-Respondent.

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

Counsel : Anil Silva P.C with U.S. Neranga for the Accused –Appellant.
Janaka Bandara D.S.G with S.N. Sabry for the Complainant-
Respondent.

Decided on: 05.07.2023.

Hon. Justice Menaka Wijesundera,

Accused –Appellants are on bail.

When the matter was taken up for argument the learned President’s Counsel submitted that he is not contesting the conviction but only the sentence.

Submissions of both parties concluded. Upon considering the submissions, the learned President’s Counsel submitted that his position put forward during the trial has not been fully considered by the trial Judge.

The learned Deputy Solicitor General brought to the notice of this Court that if the remorsefulness displayed by the Accused - Appellants right now had been displayed at the very beginning of the trial, it would have saved the valuable time of Court and the valuable time of Counsel and all parties. But he had no objection for the application of the counsel for the Accused –Appellant.

In this matter we observe that the incident had taken place in 2013 and the trial had concluded in 2018. Therefore, from the date of incident 10 years have lapsed. This Court also notes that if the remorsefulness expressed by the Accused –Appellants at this stage had been expressed at the time when the trial was taken up, the long process of a trial

could have been avoided and it would have saved the time of the Judge, the Counsel and all parties. Nevertheless having considered submissions of all parties, this Court is of the view that since both the Accused –Appellants are first time offenders and the time duration, since the date of offence and the conclusion of the trial that the sentences imposed on the Accused –Appellants should be reviewed.

As such, the sentence imposed on the 1st Accused –Appellant for the 1st count is reduced to one year imprisonment and for the 2nd count also the same. Both these terms of imprisonments are suspended for 10 years. The terms of imprisonments of the 2nd Accused –Appellant is also reviewed and for the 5th charge the term of imprisonment period is reduced to one year, and for the 6th charge also the same and both terms of imprisonments are suspended for 10 years. The rest of the sentence imposed on both Accused –Appellants to remain the same.

Subject to the said variation, the instant appeal is dismissed.

JUDGE OF THE COURT OF APPEAL.

Hon. Justice B. Sasi Mahendran,

I agree.

JUDGE OF THE COURT OF APPEAL.

Vkg/-