

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 Criminal Procedure Act No. 15 of the 1979 read with Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

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

Complainant

Court of Appeal Case No.
CA. HCC-0339-19

High Court of Panadura Case No.
3163/14

Vs.

Barunupolage Nayanajith Pathmabandu

Accused

AND NOW BETWEEN

Barunupolage Nayanajith Pathmabandu

Accused-Appellant

Vs.

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

Respondent

Before : Menaka Wijesundera, J.
B. Sasi Mahendran, J.

Counsel : Neranjan Jayasinghe with Harshana Ananda for the Accused-Appellant.
Janaka Bandara, D.S.G for the State.

Decided on : 05/10/2023.

Menaka Wijesundera, J.

The instant appeal has been filed to set aside the Judgment dated 04/11/2019.

The Accused-Appellant(hereinafter referred to as the Appellant) had been indicted in the High Court of Panadura for being in possession and trafficking of 23.96 grams of heroin under the Provision of Poisons, Opium and Dangerous Drug Ordinance Act No. 13 of 1984.

When the trial was taken up the Accused- Appellant had pleaded not guilty and had faced the trial. Upon the conclusion of the trial, the Appellant had been convicted and life imprisonment had been ordered.

When the matter was taken up for argument, the Counsel appearing for the Accused-Appellant stated that the Judgment of the Trial Judge is not in accordance with Section 283(2) of the Code of Criminal Procedure Code, because he has not specified as to which offence or offences he has convicted and sentenced the Appellant.

The learned Deputy solicitor General conceded to this position.

As such, we are of the opinion, that it is a serious misdirection by the Trial Judge which warrants a re-trial of the matter.

As such, the instant Appeal is allowed and we set aside the conviction and the sentence entered by the trial Judge and directs the Registrar of this Court to send the case record back to the High Court for re-trial.

The Prison Authorities are directed to produce the Accused-Appellant before the relevant High Court upon receiving notice by the High Court.

JUDGE OF THE COURT OF APPEAL

B. Sasi Mahendran, J.

I agree.

JUDGE OF THE COURT OF APPEAL