

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

**Court of Appeal case no : CA HC 54 / 2013**

M.M.D.D.Sujith Milan

No. 27

Mirissan Kotuwa

Lunuwila

**Petitioner**

**Vs.**

Hon Attorney General

Attorney General's Department

Colombo 12

**Respondents**

**C. A. No. 54 / 2013**

**H. C. Chillaw Case No. 43/ 99**

**BEFORE** : S. Devika de L. Tennekoon , J  
S. Thurairaja P. C. J

**COUNSEL** : Neranjan Jayasinghe for the Accused – Appellant.  
Yasnatha Kodagoda, A. S. G. with D. S. Soosaitas, SSC  
for A. G.

**ARGUED &**

**DECIDED ON** : 23.10.2017

**S. Thurairaja P. C. J**

Accused – Appellant is present in Court produced by the Prison Authorities.

Counsel for the Accused – Appellant submits that he has instructions to withdraw the appeal and he pleads with the Court to act under Sections 359 and 328 of the Criminal Procedure Code and moving the Court to make the sentence to run concurrent because as per the indictment these two offences were indicted under the same course of transaction. Further, the accused appellant is in remand from the date of conviction. Therefore, he wants the sentence to be implemented from the date of remand. Senior State Counsel informs Court that he has no objection for the withdrawal of the Appeal. He submits that he has no

objection of implementing the sentence from the date of conviction. But he is objecting to implement the sentence concurrently.

We considered the submissions of both counsel and we perused the order delivered by the learned High Court Judge and we find that the Accused Appellant was 19 years at the time of the incident and the victim was 14 years. Considering the nature of the offence and the indictment we find that the Attorney General has indicted the Accused Appellant on two counts which happened in the same course of transaction.

Further, the sentence given is fairly reasonable namely, 12 years imprisonment and 3 years imprisonment. Considering all circumstances especially considering the age of the Accused Appellant we decide to implement the sentence concurrently. Both the sentences will be implemented concurrently. For the purpose of certainty the sentence of the Accused Appellant stands as follows:

The sentence given for the first offence under Section 357 of the Penal Code 3 years and the sentence of 12 years given under Section 364 (2) will be implemented together. All the other fine and the compensation ordered will stand as it is. Further, the Accused Appellant is in remand from the date of conviction. Therefore the sentence would be implemented from the date of conviction.

The Prison Authority is hereby directed to implement the sentence from the date of conviction namely 27.03.2013.

Subject to variation of the sentence the Appeal is dismissed.

Registrar is hereby directed to return the case record to the Registrar of High Court of Chillaw to implement the sentence.

JUDGE OF THE COURT OF APPEAL

**S. Devika de L. Tennekoon , J**

I agree

JUDGE OF THE COURT OF APPEAL