

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

In the matter of an application under
Article 138 of the Constitution.

CA MC/RV Application

No: 13/2016

Hiriyadeniyage Susantha Rohana,
Prisoner No: P 35455,
Welikada Prison,
Baseline Road, Colombo.

Petitioner.

Vs.

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

and 02 others.

Respondents.

CA/MC/RV 13/2016

BEFORE : P.PADMAN SURASENA, J. (P/CA) &
A.L. SHIRAN GOONERATNE, J.

COUNSEL : K.Thiranagama for the Petitioner.
Nayomi Wickremasekara SSC for the Respondent.

**ARGUED AND
DECIDED ON:** 19.03.2108

P.PADMAN SURASENA, J. (P/CA)

Court heard the submissions of learned counsel for the Petitioner as well as the learned Senior State Counsel. In this case, subsequent to a fundamental rights application filed by the Petitioner in the Supreme Court, the Supreme Court having considered the submissions of counsel has directed the Registrar of the Supreme Court to forward these papers to the President of the Court of Appeal to consider these papers as an application for revision filed in terms of Article 138 of the constitution. The Supreme Court has directed this court to take appropriate steps

after noticing parties and make a suitable order in terms of law after perusing the relevant records of the court of first instance if necessary.

This court has called for relevant records from the Magistrate's Court of Mathugama. However the response this court has received is the information that relevant records are not available in the Magistrate's Court. Therefore this court is unable to peruse the said relevant records.

Learned Counsel for the Petitioner submits that he would be contended if this court makes the sentences imposed by the Magistrate's Court of Mathugama in respect of two counts of the following 9 cases to run concurrently.

Learned Senior State Counsel states that she has no objection for this adjustment.

Learned Counsel for the Petitioner submits that the accused in this case is 49 years old. Having considered the special circumstances of this case this court makes the following order.

- (1) M.C. Mathugama 61784/10 sentence of 2 years rigorous imprisonment and the default sentence of 3 months simple imprisonment imposed in respect of each count to run concurrently.
- (2) M.C. Mathugama 61785/10 sentence of 2 years rigorous imprisonment and default sentence of 3 months simple imprisonment imposed in respect of each count to run concurrently.
- (3) M.C. Mathugama 69496/10 sentence of 2 years rigorous imprisonment and default sentence of 3 months simple imprisonment imposed in respect of each count to run concurrently.
- (4) M.C. Mathugama 70886/10 sentence of 2 years rigorous imprisonment and default sentence of 3 months simple imprisonment imposed in respect of each count to run concurrently.

- (5) M.C. Mathugama 69495/10 sentence of 2 years rigorous imprisonment and default sentence of 3 months simple imprisonment imposed in respect of each count to run concurrently.
- (6) M.C. Mathugama 69494/10 sentence of 2 years rigorous imprisonment and default sentence of 3 months simple imprisonment imposed in respect of each count to run concurrently.
- (7) M.C. Mathugama 70885/11 sentence of 2 years rigorous imprisonment and default sentence of 3 months simple imprisonment imposed in respect of each count to run concurrently.
- (8) M.C. Mathugama 73109/11 sentence of 2 years rigorous imprisonment and default sentence of 3 months simple imprisonment imposed in respect of each count to run concurrently.
- (9) M.C. Mathugama 74519/11 sentence of 2 years rigorous imprisonment and default sentence of 3 months simple imprisonment imposed in respect of each count to run concurrently.

Learned Magistrate of Mathugama is directed to issue a fresh committal in each of these cases according to the adjustments made above, to the Prison Authorities.

Registrar of this court is directed to send along with this order copies of the relevant warrants of commitment (**P 5 (a) to P 5 (i)**) submitted by the Petitioner to the learned Magistrate of Mathugama, to facilitate the enforcement of adjusted sentences.

Proceedings are terminated.

PRESIDENT OF THE COURT OF APPEAL

A.L. SHIRAN GOONERATNE, J.

I agree.

JUDGE OF THE COURT OF APPEAL.

Vkg/-