

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

Niladeniye Dhanushka Bandara  
Weerasinghe  
No.222/A, Ketakumbura,  
Kadugannawa.

**CA (PHC) 126-16**

**H.C. Kandy Case  
No.24/2016**

**M.C. Kandy  
Case No.6382/16**

**Accused-Petitioner-Appellant**

**Vs.**

- 1). Officer-in-Charge  
Police Station,  
Kadugannawa.

**Complainant-Respondent-  
Respondent**

- 2). The Hon. Attorney General  
Attorney General's Department,  
Colombo 12.

**Respondent-Respondent**

BEFORE : HON. JUSTICE K.K. WICKREMASINGHE  
HON. JUSTICE K. PRIYANTHA FERNANDO

COUNSEL : W.D. Weerarathe for the Accused-Petitioner-  
Appellant.

Chathuri Wijesuriya, SC for the A.G.

ARGUED AND  
DECIDED ON : 20.12.2019

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**HON. JUSTICE K.K. WICKREMASINGHE**

Accused-Petitioner-Appellant is present on bail.

Learned Senior Counsel appearing for the Appellant makes submissions to mitigate the sentence. He informs Court that the Appellant was convicted for an offence punishable under Section 78 (5) read with Section 9 of the Poisons, Opium and Dangerous Drugs Ordinance (As Amended) for possession of 530 mg of cannabis sativa. After pleading guilty to the charge, he was convicted and accordingly, imposed to pay a fine of Rs.1500/- and enlarged the Accused-Petitioner-Appellant on bail. Since he is a young person, learned Counsel for the Appellant makes submissions to bring down the sentence and to convert the fine to a State cost. Further, it is submitted that Rs.1500/- already paid by the Appellant as a fine.

State Counsel appearing for the Respondent, considering the above circumstances concedes to the application by the Counsel for the Appellant to convert the fine to a State cost.

Accordingly, we act under Section 306 (1) of the Code of Criminal Procedure Act No.15 of 1979 (As Amended). Considering the Appellant's age, good behaviour and the other extenuating circumstances (the documents filed as 'X1' - 'X5') we set aside the conviction and the fine. Acting in terms of Section 306 (1) of the Code of Criminal Procedure Act No.15 of 1979 (As Amended), without proceeding to the conviction, we warn and discharge the Accused-Petitioner-Appellant. Also, we order the Appellant to pay Rs.1500/- as a State cost. Since he had already paid

Rs.1500/- as fine we convert the abovementioned fine to a State cost.  
Accordingly, the appeal is allowed.

Registrar is directed to send copies of the order to High Court and the  
Magistrate's Court of Kandy.

  
**JUDGE OF THE COURT OF APPEAL**

**HON. JUSTICE K. PRIYANTHA FERNANDO**

I agree.

  
**JUDGE OF THE COURT OF APPEAL**

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