

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

CA HC : 05/ 2018

K.A.Sugandika Chathurani

Petitioner

Hon. Attorney General

Respondent

C.A. No. 05/2018 - H.C. Chilaw Case No. HC 49/2013

BEFORE : DEEPALI WIJESUNDERA J AND
ACHALA WENGAPPULI J

COUNSEL : Anil Silva PC with Sahan Kulatunga
for the Accused-Appellant

Jayalakshi De Silva SC for the Respondent

ARGUED AND
DECIDED ON : 30.05.2018

DEEPALI WIJESUNDERA J

This is an appeal against the order given by the High Court Judge of Chilaw on 27.02.2018. The appellant is a surety in Case No. HC 49/2013. We find that the High Court Judge has convicted the appellant for contempt of Court. But there is no charge sheet served on the appellant and no charge read out to the appellant. In the middle of the trial he has found that the sureties were in Court and stating that they have given false affidavit saying that the 3rd accused does not have a passport and convicted them for contempt of Court. We find that the appellant's affidavit does not say anything about the accused not having a passport. Therefore, the finding of the learned High Court Judge is wrong and he has convicted this appellant without reading out the charge or serving a

charge sheet and there has been no representation for the appellant. This is contrary to all principles of natural justice. Section 18 of the Judicature Act No.2 of 1978 provides that any person who commits contempt should be tried in a summary manner. Section 449 of the Code of Criminal Procedure Act No. 15 of 1979 also deals with summary punishment for perjury in open Court.

Both these sections state that a person charged for contempt of Court should be tried summarily.

Learned State Counsel concedes the fact that the appellant has been convicted without a charge sheet. For the above stated reasons, we set aside the illegal order of the learned High Court Judge of Chilaw delivered on 27.02.2018 and acquit the appellant.

The appellant acquitted. Appeal allowed.

JUDGE OF THE COURT OF APPEAL

ACHALA WENGAPPULI J

I agree.

JUDGE OF THE COURT OF APPEAL

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