

**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

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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