

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

**In the matter of an application for  
Revision in terms of Article 138(1) of  
the Constitution.**

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

**Complainant**

Court of Appeal  
Case No.

**CPA/109/2025 [REV]**

Vs.

High Court of Colombo  
Case No. **HC 2773/2021**

Christoper Francis Peries,  
No.8/A,  
Park Driver,  
Colombo 05.

**Accused**

**AND NOW BETWEEN**

Christoper Francis Peries,  
No.8/A,  
Park Driver,  
Colombo 05.

**Accused-Appellant**

Vs.

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

**Complainant-Respondent**

**Before:**     **B. Sasi Mahendran, J.**  
                  **Amal Ranaraja, J.**

**Counsel:**   Harishke Samaranayake, AAL, instructed by Kushani  
                  Hatthotuwa, AAL, for the Petitioner.

Maheshika Silva, DSG, for the Respondents.

**Argued on:**   23.01.2026

**Judgment on:** 12.02.2026

## **Order**

### **AMAL RANARAJA, J.**

1. This is an application filed by the Accused-Petitioner (hereinafter referred to as the “*Petitioner*”, seeking to invoke the remedy of revisionary jurisdiction granted to this Court by Article 138 of the Constitution.
  
2. The petitioner is seeking to revise and set aside the order dated October 08, 2025, made in the *High Court of Colombo* case number HC 2773/2021, dismissing an application purportedly made in terms of section 200(1) of the Code of Criminal Procedure Act No.15 of 1979 seeking the petitioner’s acquittal of the charges.

3. In High Court case number HCC 2773/2021, the petitioner along with a co-accused have been charged with two distinct offences;
  - i. Conspiracy to commit cheating; punishable under sections 113(b) and 102, read with section 403 of the Penal Code of Sri Lanka.
  - ii. Cheating punishable under section 403 of the Penal Code of Sri Lanka.
4. Following the issuance of process to the accused, it has been revealed that the second accused named in the indictment had passed away.
5. A death certificate has since been tendered to the Court to substantiate such fact. Consequently, the matter has proceeded to trial and the prosecution has concluded its case on August 21, 2025.

This has involved leading evidence from witnesses numbered 1, 3, 8, 10, 11 and 12; and tendering documents marked P1 to P11 into evidence.
6. Thereafter, an application has been made on behalf of the petitioner purportedly under section 200(1) of the Code of Criminal Procedure Act, No.15 of 1979, seeking the petitioner's acquittal of the charges.

7. The learned High Court Judge in her disputed order dated October 08,2025 has rejected the application on behalf of the petitioner and directed the defence to proceed.
8. The petitioner being aggrieved by the said order has now preferred the instant application to this Court.
9. Section 200(1) of the Code of Criminal Procedure Act, No.15 of 1979 provides as follows;

*“(1) When the case for the prosecution is closed, if the Judge wholly discredits the evidence on the part of the prosecution or is of opinion that such evidence fails to establish the commission of the offence charged against the accused in the indictment or of any other offence of which he might be convicted on such indictment, he shall record verdict of acquittal; if however the Judge considers that there are grounds for proceeding with the trial he shall call upon the accused for his defence.”*

10. In the analysis of section 200(1) of the Code of Criminal Procedure Act, it is essential to understand the legal framework it establishes and the implications it holds for criminal proceedings. Articulating the same, Salaam J, (as he was then) in *Harold Rex Jansen vs. AG CA Application 151/2013*, decided on February 26, 2014 has stated as follows;

*“What needs to be addressed here is whether the Court is bound to give reasons before it decides to call for the defence under section 200(1). Perhaps, there may be cases in which the High Court Judges traditionally express their mind that the prosecution has unfolded a prima-facie case or that there are grounds for proceeding with the trial or similar words to that effect, prior to their proceeding to call for the defence. On a strict interpretation of the section, we are disposed to think that at the end of the case for the prosecution; suffice it to say that there are grounds for proceedings with the trial or similar expression. In giving effect to section 200(1) of the Code, it must be borne in mind that when the High Court Judge does not wholly discredit the evidence on the part of the prosecution or is of opinion that such evidence establishes the commission of the offence or **of any other offence**, he is entitled to call for the defence.*

*The expression “**there are grounds for proceeding with the trial**” as used in section 200(1) cannot certainly suggest or convey that the High Court Judge is obliged to give elaborate reasons for his decision to call for the defence. The grounds for proceeding with the trial at the close of the case for the prosecution means nothing more than the High Court Judge **CONSIDERING** that there are grounds for proceeding with the trial. The ordinary meaning of the word ‘CONSIDER’ as it occurs in section 200(1) would mean “to think about carefully”,*

*especially in order to make a decision. Quite obviously, the Section does not make it obligatory on the part of the High Court Judge to give reasons as to why he considers the case as disclosed by the prosecution merits further trial. If elaborate reasons are required to be assigned before calling the defence, then, every High Court criminal trial (without a jury) ought to carry two Judgments, one at the close of the case for prosecution and the other at the close of the defence, i.e. under Sections 200 and 203 respectively”.*

11. In the impugned order, the learned High Court Judge has not wholly discredited the prosecution witnesses narrative. She has found that the evidence establishes the commission of the offences with which the petitioner is charged. Consequently, the learned High Court Judge has proceeded to call for the defence.

එකී තීන්දුවෙහිදී ගරු අභියාචනාධිකරණය විසින් සඳහන් කර ඇත්තේ “සලකන්නේ නම්” (Considering) යන යෙදුමේ අර්ථය වන්නේ “ප්‍රවේශමෙන් සලකා බැලීම” (To think about carefully) යනුවෙනි. ඒ අනුව මෙම නඩු විභාගයේදී පැමිණිල්ල විසින් ඉටුරිපත් කර ඇති සාක්ෂි සියල්ල මා විසින් අධ්‍යයනය කරන ලදී. එකී සාක්ෂිවල ස්වරූපය ප්‍රවේශමෙන් සලකා බලන ලදී. එහිදී අනාවරණය වූයේ නඩු විභාගය පවත්වාගෙන යාමට හේතු ඇති බවය.

[*vide* order of the High Court in

High Court case number HC 2773/2021]

In those circumstances, the impugned order is legal.

12. A remedy in revision lies as an extraordinary discretionary power, when an aggrieved party can demonstrate exceptional circumstances in a fundamental error in law/procedure in a lower Court's decision rather than merely relying on a right of appeal. It is not a substitute for a regular appeal and is generally only exercised when no other statutory remedies are available or where, despite an appeal being available, exceptional circumstances exists. Such remedy cannot be used simply because a Judge's order is deemed wrong.

13. Explaining the remedy in revision, Ranjith Silva J., in *Rajapasksha Pathirage Nandawathie and Another vs. Kuruppuge Mahindasena CA* (PHC) Application No. 242/2006 decided on November 03,2009 has stated as follows;

*“...In an application for revision, what could be decided is whether the decision is legal or illegal and not whether the decision is right or wrong. Therefore in an application for revision there is no question of a rehearing or the re-evaluation of evidence in order to arrive at a decision. In an application for revision the task of the High court is to decide, not whether, the decision is right or wrong but simply whether the decision is legal or illegal. Revision applications could be disposed of easily and quickly unlike appeals, where the parties are allowed to re-agitate the entire Matter. It is for this reason that the legislature has in its wisdom devised this stratagem to prevent inordinate*

*and undue delay. Parties should not be allowed to achieve indirectly by resorting to devious or indirect methods, the very thing that the legislature directly intended to deprive them of”.*

14. Accordingly, I am not inclined to issue notice to the complainant-respondent and proceed to dismiss the application at this initial stage.

I make no order regarding costs.

*The application stands dismissed.*

15. The Registrar of this Court is directed to communicate this order to the *High Court of Colombo* for compliance.

**Judge of the Court of Appeal**

**B. Sasi Mahendran, J.**

I agree,

**Judge of the Court of Appeal**