

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

In the matter of an application for revision
in terms of the Article 138 of the
Constitution of the Democratic Socialist
Republic of Sri Lanka, reading with
Section 16(3) of the Judicature Act No.02
of 1978.

CA/CPA/126/2022

HC of Colombo Case No.: HC/3748/2007

Attorney General,
Attorney General's Department, Colombo
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Complainant

Vs

01.)Rathnayaka Mudayanselage
Nishanka Jayasinghe

02.) Appuralalage Chaminda
Dilruksha Roopasinghe

03.) Nalaka Liyanagama

04.) Rajaguru Mudayanselage Indika
Roshan Jayasinghe

05.) Usgoda Arachchilage
Chandrasoma Deshapriya

06.) Amudamana Arachchige Saman

07.) Jayakodi Arachchige Wasantha
Chandrakumara

08.) Moonadeniya Manage Saman
Shantha Prasad

09.) Madagoda Arachchige Indika
Kumara Gunaratna

10.) Kulasekara Mudayanselage
Chaminda Kulasekara

11.) Hewahettige Suminda

12.) Hetti Pathirannahalage Dinesh
Susantha Dharmapriya

13.) Gammampila Imiyage Don Hemal
Lanka Priyadharshana Gammampila

14.) Karasinghe Arachchige Ruwan
Lasantha Deshapriya

15.) Liyanaralalage Namal Jagath
Bandara Seneviratne

16.) Ranmohottige Dinesh Dharmapriya
Amarasooriya

17.) Jayalath Pedige Suranga Nalin
Dilruksha

18.) Horathal Pedige Nalaka Mihira
Bandara Wijeratne

19.) Saluwadana Nilamelage Gamini
Seneviratne

20.) Amarasinghe Kankanamlage
Vijitha Kumara

21.) Nisshanka Arachchi
Appuhamilage Rasika Nilanga

22.) Liyanaarachchi Kankanamlage
Chandika Prasad Liyanaarachchi

Accused

AND NOW BETWEEN

Wimala Perera
No: 7/83, Kapuwatta Road,
Gangodawila, Nugegoda

Aggrieved Party-Petitioner

Vs.

01.)Rathnayaka Mudayanselage
Nisshanka Jayasinghe (01)

02.) Appuralalage Chaminda
Dilruksha Roopasinghe(02)

06.) Amudamana Arachchige Saman
(Currently serving the sentence at the
Prison)

16.)Ranmohottige Dinesh
Dharmapriya Amarasooriya

17.) Jayalath Pedige Suranga Nalin
Dilruksha
(Currently serving the sentence at the
Prison)

22.) Liyanaarachchi Kankanamlage
Chandika Prasad Liyanaarachchi

Accused Respondents

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

Complainant Respondent

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

Counsel: Amila Palliyage with Sandeepani Wijesooriya, S. Udugampola, Lakshitha
Wakishta Arachchi and Subaj De Silva for the Aggrieved Party Petitioner
Anil Silva, PC with Anjana Abeyratne for the Accused-Respondent
Wasantha Perera, DSG for the Complainant- Respondent

Argued On : 04.09.2025

Judgment On: 29.10.2025

JUDGMENT

B. Sasi Mahendran, J.

The Aggrieved Party Petitioner filed this revision application on 14.10.2022, prayed for the following relief in the said petition.

- a) Issue notice on the Respondents.
- b) Revise and/ or set aside the order of the learned High Court judges' order of sentencing dated 2022.05.05
- c) Order appropriate sentences on the Accused Respondents depending upon the aggravating circumstances of this case.
- d) Grant Costs
- e) Order the Accused Respondents to pay a reasonable compensation to the aggrieved party
- f) Grant such other and further relief that Your Lordship's Court shall seem meet.

It is observed that the application seeking to invoke the Court's revisionary jurisdiction was made on 14.10.2022 . It is a well-established principle that a party seeking revision must do so without undue delay. In the present matter, the delay remains unexplained. Our Courts have consistently held that such inordinate and unjustified delay constitutes a bar to the exercise of revisionary powers under Section 364 of the Criminal Procedure Code.

This concept was considered by Justice Kulathilaka, J. in **Rajapakse v. The State, 2001 (2) SLR 161** held that:

“The learned counsel for the accused-appellant also submitted that if this Court were to hold that the petition of appeal is out of time it would not preclude him from inviting this Court to exercise the revisionary powers in terms of Section 364 of the Code of Criminal Procedure Act. We agree that the powers of revision of the Court of Appeal are wide enough to embrace a case where an appeal lay was not taken. However, an application in revision should not be entertained save in exceptional circumstances.

Further held that:

In addition, if this Court were to act in revision, the party must come before the Court without unreasonable delay. In the instant case, there is a delay of 13 months. In this regard, vide Justice Ismail's judgment in *Camillus Ignatious vs. OIC of Uhana Police Stations* (Application in revision), where His Lordship was of the view that a mere delay of 4 months in filing a revision application was fatal to the prosecution of the revision application before the Court of Appeal.”

In *Camillus Ignatious vs. OIC of Uhana Police Stations CA 907/89 M.C. Ampara 2587* (Application in revision) where His Lordship was of the view that a mere delay of 4 months in filing revision application was fatal to the prosecution of the revision application before the Court of Appeal. Accused's contumacious conduct and unreasonable delay would necessarily preclude him from inviting this Court to act in revision in terms of Section 364 of the Code of Criminal Procedure Act.”

His Lordship further added- “These matters must be considered in limine before the Court decides to hear the accused-petitioner on the merits of his application. Before he could pass the gateway to relief his aforesaid contumacious conduct and his unreasonable and undue delay in filing the application must be considered and determination made upon those matters before he is heard on the merits of the application.

In the instance case petitioner has failed to explain the reason for the delay.

Therefore, with the above judicial pronouncement, we dismissed the application without issuing notice to the Respondents.

JUDGE OF THE COURT OF APPEAL

Amal Ranaraja, J.

I AGREE.

JUDGE OF THE COURT OF APPEAL