

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

CA. Case No. 134/2011

HC Negombo : 343/06

H.A. Prasanga Silva

Appellant

Vs.

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

Respondent

Before : Deepali Wijesundera, J and
L.U. Jayasuriya, J.

Counsel : Indika Mallwarachchi for the 1st Accused Appellant.
: Anil Silva P.C. with Sahan Kulatunga for the 2nd
Accused Appellant.
Chethiya Goonesekera DSG for the Respondent.

Date : 09th December, 2016

Judgement

Deepali Wijesundera, J

Heard both counsel for the Accused Appellants as well as the Learned Deputy Solicitor General for the Respondents.

The Learned Deputy Solicitor General concedes that the 2nd Accused Appellant should be acquitted on the 1st and 3rd counts. Considering the evidence against the 2nd Accused Appellant, Court decides that he should be acquitted from the 2nd count as well.

Learned Deputy Solicitor General concedes that this case should be sent back for re-trial regarding the 1st Accused Appellant. Therefore Court decides to allow the appeal regarding the 2nd Accused Appellant and acquit him on all charges.

On a perusal of the evidence given by the Appellant we find that the confessional statement made by the Appellant has been produced and marked by the state as **X10, X15 and X16** and that this will offend

Section 25 of the Evidence Ordinance. Therefore the conviction can not be allowed to stand.

The appeal of the 2nd Accused Appellant is allowed.

We send the case back for re-trial regarding the 1st Accused Appellant.

JUDGE OF THE COURT OF APPEAL

L.U. Jayasuriya, J.

I agree.

JUDGE OF THE COURT OF APPEAL