

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

**In the matter of an Appeal in terms of  
section 331(1) of the Code of Criminal  
Procedure Act, No.15 of 1979 read  
with Article 138 of the Constitution of  
the Democratic Socialist Republic of  
Sri Lanka.**

Democratic Socialist Republic of Sri  
Lanka

**Complainant**

Court of Appeal  
Case No. **CA/HCC/150/2018**

Vs.

High Court of Trincomalee  
Case No. **HCT 547/2013**

Piramanage Samantha Chaminda

**Accused**

**AND NOW BETWEEN**

Piramanage Samantha Chaminda

**Accused-Appellant**

Vs.

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

**Complainant-Respondent**

**Before:**     **Amal Ranaraja, J.**  
                  **R. P. Hettiarachchi, J.**

**Counsel:**   Dilan Ratnayake, PC with Nipun Nawarathna, for the  
                  Accused-Appellant.

Disna Warnakula, D.S.G. for the Respondent.

**Argued on:**   14.01.2026

**Judgment on:** 16.02.2026

## **JUDGMENT**

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

1. The Accused-Appellant (hereinafter referred to as the “Appellant”) has been indicted in the *High Court of Trincomalee* in High Court case number HC 547/2013.
  
2. The charges in the indictment are as follows;

#### Charge 01

That on or about, August 25, 2003, at *Mollipothana*, in *Kantale*, within the jurisdiction of this Court, the accused-appellant along with others unknown to the complainant, by being members of an unlawful assembly, with the common object of robbing property belonging to *Abdul Kuddoos Hazzi*

*Beggam*, committed an offence punishable under section 140 of the Penal Code.

#### Charge 02

That at the same date, place and in the course of the same transaction, the appellant, while being a member of the said unlawful assembly, did commit robbery of cash worth Rs.127,200 and gold jewellery, property in the possession of one *Abdul Kuddoos Hazzi Beggam*, in prosecution of the common object of the assembly or such as the members of that assembly knew that it was likely to be committed and the appellant being members of the said unlawful assembly at the time of the commission of the said offence, thereby committed an offence punishable under section 383 read with section 146 of the Penal Code.

#### Charge 03

That at the same date, place and in the course of the same transaction, the appellant, while being a member of the said unlawful assembly, did commit robbery of cash worth Rs.127,200 and gold jewellery, property in the possession of one *Abdul Kuddoos Hazzi Beggam*, thereby committed an offence punishable under section 383 read with section 32 of the Penal Code.

3. At the conclusion of the trial, the learned High Court Judge has convicted the appellant of the first and second charges and acquitted him of the third charge. The appellant has been sentenced thereafter as follows;

*Has imposed a term of 06 months' rigorous imprisonment in respect of the 1<sup>st</sup> charge.*

*Further, has imposed a term of 3 years' rigorous imprisonment in respect of the 2<sup>nd</sup> charge.*

*The appellant has been also directed to pay a sum of Rs. 50,000.00 as compensation to PW01 with a term of 5 months' simple imprisonment in default.*

4. When the matter was taken up for argument, the learned President's Counsel for the appellant informed this Court that the appellant was not disputing the convictions but only the sentencing order. Accordingly, the learned President's Counsel urged the following ground of appeal;

*The appellant was denied the opportunity to present material in mitigation of the sentence before the High Court. Consequently, the sentence imposed is manifestly excessive.*

5. The learned President's Counsel for the appellant argued that the appellant has no previous convictions, and was only 27 years old at the time of the alleged offences. He is a father of three children; two of whom are still attending high school. The appellant is the sole breadwinner of his family, and his incarceration would leave them in a state of destitution. Additionally, that the appellant supports his elderly parents, who are unwell and are unable to care for themselves.
6. That the offences in question have occurred in 2003 over 22 years ago, and the charges have lingered over the appellant for almost another 05 years, which is a substantial period. Importantly, there is no minimum mandatory sentence prescribed for the offences of which the appellant has been convicted of, and he is genuinely remorseful for his actions.
7. The learned Deputy Solicitor General has asserted that the offences for which the appellant has been convicted are serious in nature. Further, she has contended that the sentence imposed on the appellant is appropriate and proportionate to the gravity of the offences committed.
8. In *Asan Mohammed Rizwan vs. Attorney General*, M.C. Pelmadulla Case No. 33332, H.C. Ratnapura Case No. HC 25/2010, Court of Appeal Revision No. CA [PHC] APN 141/2013 decided on March 25, 2015, Chitrasiri, J, has discussed a gamut of issues regarding sentencing, stating the following:

*“Sentencing is an important aspect in the administration of criminal justice system. A sentence ranges from death penalty to the mere censure in the form of good behavior bond or probation. There are multiple considerations relevant to the determination of a sentence. The most important consideration is the seriousness of the crime. Jurisprudentially, this position is persuasive despite pragmatic difficulties associated with matching the harshness of the sanction to the severity of the crime.”*

*“...Therefore, it is necessary for the judges to keep in mind the objectives of sentencing and also the sentencing guidelines, in order to arrive at the correct and appropriate decision.*

*Objectives of sentencing include the following:*

- (i) To punish offenders to an extent and in a manner, which is just in all the circumstances;*
- (ii) To protect the community from offender;*
- (iii) To deter offenders or other persons from committing offences of the same or similar nature;*
- (iv) To establish conditions so that rehabilitation of offenders may be promoted or facilitated;*
- (v) To signify that the court and the community denounce the commission of such offences;*
- (vi) To maintain the required standards of societal expectations in making decisions;*
- (vii) To prevent overcrowding prisons also could be considered as one such objective particularly when it comes to developing countries such as ours.”*

*“...I will now advert to the other aspects that are necessary to consider before a sentence is determined. Those can be categorized as follows:*

- (a) The maximum and the minimum (if any) penalty prescribed for the offence;*
- (b) The nature and gravity/ seriousness of the particular offence.*
- (c) The offender’s culpability and degree of his/her responsibility for the offence;*
- (d) Mental state of the accused at the time the offence was committed;*
- (e) Evidence as to pre-arrangement for the commission of the offence;*
- (f) The impact of the offence on any victim and the injury, loss or damage caused as a result of the offence committed;*
- (g) Whether the offender pleaded guilty to the offence and if so, the stage in the proceedings at which the offender did so or the stage at which it was indicted;*
- (h) The conduct of the offender during the trial as an indication of remorse or the lack of remorse*
- (i) Any action taken by the offender to make restitution of the injury, loss or damage arising from the offence, including his or her willingness to comply with any order for restitution that a court may consider.*
- (j) The offender’s previous character, good or bad;*
- (k) Imprisonment should be used when no other sentence is adequate;*
- (l) Proportionality between the crime and the sentence*
- (m) Possibility of reforming the offender;*
- (n) To ensure consistency in deciding sentences;*
- (o) Presence of any aggravating or mitigatory factors concerning the offender or any other circumstance relevant to the commission of the offence.”*

9. At the same time, there are statutory provisions that govern the sentencing of a convicted individual. One such provision is section 303 of the Criminal Procedure Code Act, No.15 of 1979 which allows for the possibility of suspending a custodial sentence.

Matters that are to be considered prior to suspending a custodial sentence are stipulated as follows;

- (a) The maximum penalty prescribed for the offence in respect of which the sentence is imposed.*
- (b) The nature and gravity of the offence.*
- (c) The offender's culpability and degree of responsibility for the offence.*
- (d) The offender's previous character.*
- (e) Any injury, loss or damage resulting directly from the commission of the offence.*
- (f) The presence of any aggravating or mitigatory fact concerning the offender.*
- (g) The need to punish the offender to an extent in a manner, which is just in all circumstances.*
- (h) The need to deter the offender or other persons from committing offences of the same or of a similar character.*
- (i) The need to manifest the denunciation by the court of the type of conduct in which the offender was engaged in.*
- (j) The need to protect the victim or the community from the offender.*
- (k) The fact that the person accused of the offence pleaded guilty to the offence and such person is sincerely and truly repentant; or*
- (l) A combination of two or more of the above.*

The instances where a custodial sentence cannot be suspended are also stipulated as follows,

- (a) A mandatory minimum sentence of imprisonment has been prescribed by law for the offence in respect of which the sentence is imposed; or*
- (b) The offender is serving, or is yet to serve, a term of imprisonment that has not been suspended; or*
- (c) The offence was committed when the offender was subject to a probation order or a conditional release or discharge; or*
- (d) The term of imprisonment imposed, or the aggregate terms of imprisonment where the offender is convicted for more than one offence in the same proceedings, exceeds two years.*

10. To fully understand the context of this case, it is essential to consider the appellant's personal circumstances. The appellant is a fifty-year-old, first time offender with an otherwise unblemished record having no prior convictions or pending cases. This status as a first-time offender suggests that the incident, the appellant was allegedly involved in maybe an aberration rather than indicative of a pattern of criminal behaviour pointing towards a lower risk of relapse into criminal behaviour and a greater potential for rehabilitation. Further, the appellant has clearly expressed his remorse regarding the incident by not challenging the convictions but only the sentencing order. This demonstration of remorse is a vital indicator of his acceptance of responsibility and his potential for rehabilitation. It suggests he understands the gravity of his actions and is committed to learning

from his experience rather than repeating it. Considering these mitigating factors, is crucial for a just and proportionate outcome.

11. Second, imposing a non-custodial sentence would serve the interest of justice and rehabilitation. Non-custodial measures are effective in reducing relapsing and allowing individuals to maintain their ties to family, employment and community.
12. By facilitating the appellant's reintegration into society, this Court can promote accountability and encourage positive behavioral changes.
13. Furthermore, the imposition of a non-custodial sentence will also alleviate the burden on the correctional facilities, which are overcrowded and under-resourced.
14. As the learned President's Counsel for the appellant has argued, the offences in question have occurred in 2003, a staggering 22 years ago. Thereafter, the charges have been hanging over the head of the appellant for another 5 years, which is a substantial amount of time.
15. Taking all these matters into consideration, this Court is of the view that a custodial sentence should not be imposed on the appellant for an offence committed 22 years ago.

16. Ends of justice will be met by substituting the substantial term of imprisonment of 3 years imposed in respect of the 2nd charge with a term of 18 months' rigorous imprisonment, which will run consecutively with the sentence of 06 months rigorous imprisonment imposed in respect of the first charge and the entire term of 02 years rigorous imprisonment suspended for a period of five years.

17. Also, instead of the sum of Rs. 50,000.00, the appellant is directed to pay a sum of Rs. 130,000 as compensation to PW01. The appellant will be liable to a further term of one-year rigorous imprisonment in default and such term of imprisonment shall run consecutive to the substantial term of imprisonment.

18. Accordingly, I affirm the convictions and vary the sentencing order.

*The appeal is partly allowed.*

I make no order regarding costs.

19. The Registrar of this Court is directed to send a copy of this judgment to the *High Court of Trincomalee* together with the original case record, for compliance.

**Judge of the Court of Appeal**

**R. P. Hettiarachchi, J.**

I agree,

**Judge of the Court of Appeal**