

**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 of the Constitution, read with Article 145 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

CA Case No : CPA 088/2025

HC of Kalutara Case No. HCC 457/12

Democratic Socialist Republic of Sri Lanka.

Complainant

V.

1. Vinige Athula Prabath Jayasinghe
2. Hettiarachchige Roshan Sanjeewa
3. Wickrama Roshan Aruna Kumara
4. Halwala Arachchilage Don Prasanna Kumara
5. Hettigoda Don Lahiru Shanaka

Accused

AND NOW BETWEEN

Hettigoda Don Lahiru Shanaka

2nd Accused-Petitioner

(presently serving his prison sentence in the
Welikada Prison)

V.

Attorney General

Attorney General's Department

Colombo 12

Complainant-Respondent

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

Counsel : Asela Serasinghe for the 2nd Accused-Petitioner
Malik Azeez, SC for the Respondent

Argument On : 09.02.2026

Judgment On: 31.03.2026

Judgment

BB. Sasi Mahendran, J.

This is a revisionary application filed by the 2nd Accused-Petitioner (hereinafter referred to as "the Petitioner") invoking the revisionary jurisdiction of this court, seeking the following reliefs prayed in the petition dated 16th September 2025.

- a) Issue notice of this revision application on the Respondent,
- b) Set aside the convictions and punishments imposed on 09-05-2025, by the Learned High Court Judge of Kalutara in Case No: HC 457/12 and acquit the 2nd Accused - Petitioner of all charges or any one or more charges contained in the said indictment,

c) In the alternative, and without prejudice to any other reliefs prayed for above, it is respectfully pleaded that Your Lordships Court would order that a re-trial to be held concerning Kalutara High Court Case No: HC 457/12, concerning the 2nd. Accused-Petitioner,

d) In the alternative, and without prejudice to any other reliefs prayed for above, consider substituting the punishments imposed by the Learned High Court Judge in Kalutara High Court Case No: HC 457/12 on 09-05-2025, with lenient punishments, concerning the 2nd Accused-Petitioner,

e) Grant such other and further relief

Our courts are reluctant to invoke revisionary jurisdiction unless the Petitioner demonstrates exceptional circumstances or satisfies the court that the impugned order shocks its conscience.

In the case of ***Bank of Ceylon Vs Kaleel and others*** [2004] 1 SLR 284, Wimalachandra J held that,

“In any event to exercise revisionary jurisdiction the order challenged must have occasioned a failure of justice and be manifestly erroneous which go beyond an error or defect or irregularity that an ordinary person would instantly react to it; the order complained of is of such a nature which would have shocked the conscience of court.”

In ***Wijesinghe V. Tharmaratnam*** CA 120/80, Decided on 14th October 1986, page 47 at page 49 Srikantha’s Law Reports, Volume (IV) Jameel J. held that,

“Revision is a discretionary remedy and will not be available unless the application discloses circumstances which shocks the conscience of court.”

In light of the judicial principles under consideration, my focus must be on whether the impugned judgment so offends the principles of justice and fairness that it shocks the conscience of this Court.

The following facts are relevant to the Application

The Petitioner, together with the 1st, 3rd, 4th, and 5th Accused, was indicted before the High Court of Kalutara on the allegation of committing offences punishable under

sections 140, 317 read with 146, 383 read with 380 and 146, and 317 read with 32 of the Penal Code.

Before the commencement of the trial, the 4th Accused pleaded guilty, and during the trial, after the evidence of PW1 and PW2 was led, the 1st Accused also pleaded guilty; punishments were subsequently imposed on them on 29.11.2012 and 04.08.2014, respectively.

At the conclusion of the trial, by judgment dated 09.05.2025, the Learned High Court Judge found the Petitioner along with the 3rd and 5th Accused guilty of the charges and imposed, for the 1st and 3rd counts, sentences of eight years' rigorous imprisonment together with a fine of Rs. 25,000/- and six months' imprisonment in default for each, ordering the sentences to run concurrently, and further directed payment of Rs. 100,000/- as compensation to the victim, with a default term of one year's rigorous imprisonment.

I note that the following evidence was presented by the prosecution before the Learned High Court Judge.

On January 18, 1994, at approximately 8:00 a.m., a van bearing registration No. L 300 arrived at A.N. Enterprises, situated near the Maggona filling station in Beruwala. PW1, Nigamuni Sumith Kingsley Mendis, the pump operator, requested the driver to move the van closer to the diesel pump. At that time, the 5th Accused, together with another unidentified individual, alighted from the van and proceeded into the office. At that moment, the Petitioner, who remained inside the van, suddenly opened the door, seized PW1 by the hand, and forcibly pulled him into the vehicle. Thereafter, the 1st Accused stabbed the witness and removed the money from his pocket.

PW1 remained confined inside the van for about ten minutes before being forcibly ejected. Immediately afterward, the 2nd Accused shouted "Lahiru, Lahiru." At that point, the 5th Accused, who had been heading toward the office, returned and entered the van. Subsequently, the 3rd Accused, who was the driver, accelerated and drove the vehicle away from the filling station in the direction of Aluthgama

According to the testimony of PW13, IP Abeyratne Dissanayake, upon receiving a telephone call regarding the robbery, the police proceeded to the filling station. They then went to Aluthgama, where they intercepted the vehicle and arrested the 1st and 3rd Accused. The remaining suspects initially escaped but were subsequently apprehended later.

At the conclusion of the trial, the Petitioner, along with two other accused, gave evidence from the witness box, which the Learned High Court Judge duly considered. It is pertinent to refer to the relevant portion of the impugned judgment.

Page 426 of the brief:

“02, 03 සහ 05 වූදිනයිත් පෙර සඳහන් කළ කොල්ලයට සම්බන්ධ නොවූ බව ප්‍රකාශ කළද ඔවුන් අදාළ කොල්ලය සිදු වීමෙන් පසු පලා ගිය වෑන් රථයේ සිටීමින් අවස්ථා තුනකදී පොලිස් අත්අඩංගුවට පත් වූ ආකාරය සැලකිල්ලට ගැනීමේදී ඔවුන් එකී අපරාධයට සම්බන්ධ නොවූ බවට සාක්ෂිමය අනුමිතියක් ඇති නොකරයි.

අලුත්ගම පොලිස් ස්ථානාධිපතිවරයා විසින් ඉහත කී වූදිනයිත් ඇතුළු සෘජු ලෙස කොල්ලකෑමේ වරද පිළිගත් 01 සහ 04 වූදිනයිත් පලා යාමෙන් සිටි L 300 වෑන් රථය අලුත්ගම කන්දෙවිහාරය අතුරු මාර්ගයේදී වට කොට නවතාලනු ලැබූ අවස්ථාවේ 02 සහ 05 වූදිනයිත් පොලිස් නිලධාරීන්ගේ ග්‍රහණයෙන් මිදී පලාගොස් තිබිණි. සෘජු ලෙස එම අවස්ථාවේ පොලිස් පරීක්ෂක දිසානායක මහතාගේ අත්අඩංගුවට පත්ව තිබුණේ 03 වන වූදිනයි. වෑන් රථය නවත්වනු ලැබූ අවස්ථාවේ පලා ගිය වෑන් රථයේ සිටි පුද්ගලයින් අතර 02 සහ 05 වූදිනයිත් පොලිසියට ලද තොරුතුරු මත කොල්ලුපිටියේදී සහ වත්තලදී අත්අඩංගුවට පත් වන තෙක් ඔවුන් සිද්ධිය පිළිබඳව කිසිදු පොලිස් ස්ථානයකට ඉදිරිපත් වෙමින් පොලිසියට සහාය වනු වෙනුවට සැඟව සිටියදී අත්අඩංගුවට ගත් බව පෙනෙන්නට ඇත.

02, 03 සහ 05 වූදිනයිත් වර්තමාන නඩුවේදී සලකා බැලෙන කොල්ල කෑමට සම්බන්ධ නොවූ නම් හෝ මිතුරුකමට වෑන් රථයේ රැඳී සිටි පුද්ගලයින් පමණක්ව සිට තිබුණි නම් ඔවුන්ගේ මිතුරන් අත්අඩංගුවට පත් වූ අපරාධයට සම්බන්ධ නොවූයෙන් දායක නොවූ බව කවර හෝ පොලිස් ස්ථානයකට ඉදිරිපත් වෙමින් ප්‍රකාශයක් ලබා දීමට කටයුතු නොකළේ මන්දැයි පැහැදිලි නොකරයි.”

It was admitted by the Petitioner that he had gone on a trip with the other accused and, following the incident at the fuel station where he saw PW1 bleeding when he got down from the van, he shouted at the others to leave as they were drunk; when the police stopped the vehicle, he alone fled and was arrested the next day. The Learned High Court Judge, having considered PW1’s evidence that the Petitioner was the person who pulled the witness into the van while the 1st Accused took the money and later fled, correctly concluded that the Petitioner shared a common intention with the other accused in committing the offence of robbery and causing grievous harm to the PW01.

I hold that the Learned High Court Judge correctly reached the conclusion in this regard, and there is no reason to interfere with the judgment dated 09.05.2025.

For the above-said reasons, I hold that the judgment of the Learned High Court Judge does not shock the conscience of this Court.

Accordingly, the application is dismissed without costs.

JUDGE OF THE COURT OF APPEAL

Amal Ranaraja, J.

I AGREE

JUDGE OF THE COURT OF APPEAL