

REPUBLIC OF SRI LANKA

In the matter of an Appeal made under
Section 331 of the Code of Criminal
Procedure Act No.15 of 1979.

Court of Appeal No.
CA/HCC/0171/2024
High Court of Kilinochchi
Case No. HC/KN/53/2022

Pushparasa Puvilan

ACCUSED-APPELLANT

Vs.

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

COMPLAINANT-RESPONDENT

BEFORE : **P. Kumararatnam, J.**
R. P. Hettiarachchi, J.

COUNSEL : **Anil Silva, PC with K. V. Thavarasa, PC,
Anjana Abeyratne, A. Jinoshan and
Oshadhi Happuarachchi instructed by
Tharmarajah and Tharmaraja for the
Appellant.**

**Nagaratnam Nishanth, SC for the
Respondent.**

ARGUED ON : **17/09/2026**

DECIDED ON : **12/10/2026**

JUDGMENT

P. Kumararatnam, J.

The above-named Accused-Appellant (hereinafter referred to as the Appellant) was indicted by the Attorney General with three charges in the High Court of Kilinochchi.

The first charge was under Section 327 of the Penal Code for driving a vehicle bearing No. NP PQ 1763 in a negligent manner posing a threat to human life or endangering of the personal safety of another on 17.12.2014.

The second charge was under Section 2 of the Offences Against Public Property Act No.12 of 1982 read together with Section 408 of the Penal Code for causing damage to the property of the Sri Lanka Railway Department amounting to Rs. 4,804,715.27.

The Learned High Court Judge after the closure of the prosecution case, called for the defence as he had found sufficient evidence to establish a case that the Appellant was required to answer. The Appellant informed Court that he was going to give evidence, and subsequently gave evidence and concluded his case.

After considering all the evidence presented by both parties, the Learned High Court Judge of Kilinochchi had imposed the following sentence to the Appellant on 11.06.2024.

- **For the 1st Count** the Appellant was imposed a fine of Rs. 100/- with a default sentence of 01-month simple imprisonment.
- **For the 2nd Count** the Appellant was sentenced to 01-year rigorous imprisonment and imposed a fine of Rs.14,414,145.80 on the Appellant with a default sentence of 01-year simple imprisonment.

The fine consists of three times the value of the amount mentioned in the second count of the indictment as per the Public Property Act.

Being aggrieved by the aforesaid conviction and sentence, the Appellant preferred this appeal to this court.

The Appellant is on bail and was present in Court when the matter was argued.

Back ground of the case

In this case the Appellant was the driver of the vehicle mentioned in the indictment. On the day of the incident the Appellant had passed the level crossing between Kilinochchi to Jaffna while the warning signal was on, and

as a result his vehicle had collided with the Anuradhapura bound train. Thus, his vehicle had sustained damage and the collision had also caused damage to the train engine and to the signal. The Railway Department had estimated the damage caused to both the rail engine and the signal to amount to Rs.4,804,715.27.

The Appellant's position was that the signal was not working and due to a drizzle, he could not hear the horn of the train.

After considering the evidence presented by both parties, the Learned High Court Judge had found the Appellant guilty as charged and sentenced him as mentioned above.

At the very outset, the learned President's Counsel submitted to Court that the Appellant is not contesting the conviction; he is only contesting the 01-year jail sentence. The learned President's Counsel further submitted that the Appellant is ready to pay the fine imposed by the Learned High Court Judge, provided the sentence imposed in the second charge was suspended.

The learned State Counsel in keeping with the highest traditions of the Attorney General's Department informed this court that he is not objecting for the suggestion provided, the Appellant pays the fine imposed by the Learned High Court Judge of Kilinochchi.

In this case the Appellant also sustained injuries and was hospitalized for some time. Further, the Appellant is ready to pay the fine of Rupees fourteen million four hundred and fourteen thousand one hundred and fifty-five and cents eighty (Rs.14,414,145.80/-) in one go.

Considering all the evidence presented during the trial, and the submissions made by both parties, I order the one-year rigorous imprisonment imposed on count number two to be suspended for five years from the date the Appellant appears at the High Court of Kilinochchi. No change will be made to the sentence imposed on count number one and the fine imposed on count number two with the default sentence.

Subject to the above variation in the sentence, the Appeal is dismissed.

The learned President's Counsel is directed to file the copy of the payment receipt of Rs.14,414,145.80/- by way of a motion to this Court.

The Registrar is directed to send this judgment to the High Court of Kilinochchi along with the original case record.

JUDGE OF THE COURT OF APPEAL

R. P. Hettiarachchi, J.

I agree.

JUDGE OF THE COURT OF APPEAL