

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

In the matter of an Application in terms of
Section 331 of the Code of Criminal Procedure
Act No 15 of 1979

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

COMPLAINANT

Court of Appeal Case No :
CA/HCC/0064/2023

High Court of Kandy Case
No.HC/94/2010

Vs

Weerasinghe Dinesh Sudantha Silva alias
Deepa

ACCUSED

AND NOW BETWEEN

Weerasinghe Dinesh Sudantha Silva alias
Deepa

ACCUSED-APPELLANT

Vs.

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

RESPONDENT-RESPONDENT

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

Counsel: Nayanathara Wijesundare for the Accused-Appellant.
Hiranjan Peiris, ASG for the State

Written 05.08.2025 (by the Accused-Appellant)

Submissions: 28.01.2026 (by the Respondent)

On

Argued On: 20.05.2026

Judgment On: 15.06.2026

JUDGEMENT

B. Sasi Mahendran, J.

The Accused- Appellant (hereinafter referred to as the Appellant), along with Aun Baba (now deceased) was indicted before the High Court of Kandy for the offence punishable under Section 44(A) of the Firearms Ordinance (as amended by Act No. 22 of 1996), read with Sections 32 and 380 of the Penal Code, for having committed a robbery at gunpoint of a sum of Rs. 1,517,800/- from one Nilangani Ratnayake on or about 15.11.2007.

Upon conclusion of the trial, the Learned High Court Judge, by judgment dated 26.03.2021, sentenced the Appellant to life imprisonment.

Being aggrieved by the said conviction and the sentence, the Appellant sought to challenge their validity before this Court.

During the argument stage, the ASG informed the Court that the said firearm had not been produced before the trial court and, therefore, the charge could not be maintained under the Firearms Ordinance where the punishment is life imprisonment. Alternatively, the Appellant could be convicted under Robbery in terms of Section 380 of the Penal Code. Learned Counsel for the Appellant submitted that the Appellant does not challenge the conviction for robbery and confines the appeal solely to the sentence imposed in view of Section 333 of the Code of Criminal Procedure Act as amended.

In the instant case, the sentence or penalty prescribed by written law is contained in Section 380 of the Penal Code, which reads as follows,

380. Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine, and if the robbery be committed on the highway between sunset and sunrise the imprisonment may be extended to fourteen years.

In the instant case, the Learned High Court Judge has imposed a sentence of life imprisonment upon the Appellant for the above charge. Therefore, in determining the appropriate punishment, the sentence should be considered solely on the basis of the robbery conviction under Section 380 of the Penal Code. As per Section 380 of the Penal Code, which prescribes a punishment that may extend up to ten years.

I note that this Appellant was convicted on 10.07.2020. It is important to note that when the indictment was served on 25.01.2011, he was produced before the Court by the prison authorities and remanded by the Learned High Court Judge. Since then, he has continuously remained in remand custody for a period exceeding 9 years. Now he is serving more than 6 years after the conviction.

At this juncture, I am mindful of Section 333 of the Code of Criminal Procedure Act, No. 25 of 2024, which reads as follows,

“6. Section 333 of the principal enactment is hereby amended in subsection (5) thereof, by the substitution for the words "received into prison under the sentence.", of the following:-

"received into prison under the sentence:

Provided that, the Court of Appeal may, in appropriate cases, order that the time spent by an appellant in custody pending the determination of his appeal and any time spent in custody prior to the conviction, such time not having been considered as part of his sentence passed at the time of his conviction by the court of first instance, be considered as part of his sentence ordered at the conclusion of his appeal."

For the above-mentioned reasons I set aside the sentence of life imprisonment imposed by the Learned High Court Judge and substitute it with a sentence that falls within the limits prescribed under Section 380 of the Penal Code, taking into account the facts and circumstances of the case.

Accordingly, the sentence of life imprisonment imposed by the Learned High Court Judge is hereby set aside and substituted with a sentence of ten (10) years' rigorous imprisonment, to run from the date of serving the indictment, namely 25.01.2011.

The Registrar of this Court is directed to forthwith communicate this judgment to the High Court of Kandy for necessary compliance.

JUDGE OF THE COURT OF APPEAL

Amal Ranaraja, J.

I AGREE

JUDGE OF THE COURT OF APPEAL