

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

In the matter of an application for Revision under and in terms of Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka, read with section 364 of the Code of Criminal Procedure Act No. 15 of 1979.

**CA Case No: CPA/20/2026**

HC of Colombo Case No: 4118/2022

Democratic Socialist Republic of Sri Lanka.

**Complainant**

**Vs**

1. Tyutkalo Vitaly, No.100, Pamunugama Road, Dungalpitiya Beach, Pitipana South, Aluthkuruwa, Negambo.

2. Sea Consortium Lanka (Pvt) Ltd, No.256, Sri Ramanathan Mawatha, Colombo 02.

3. Arjuna Indrajith Thisera Hettiarachchi, No.44, Rudra Mawatha, Colombo 06.

4. Devinda Indrajith Thisera Hettiarachchi,  
No.14/2104, Kavanagh Street, South Bank,  
Melbourne,  
Victoria 3006,  
Australia.

5. Milinda Indrajith Thisera Hettiarachchi,  
No.14/2104, Kavanagh Street,  
South Bank,  
Melbourne,  
Victoria 3006, Australia.

6. Aminda Indrajith Thisera Hettiarachchi,  
No.44,  
Rudra Mawatha,  
Colombo 06.

7. Panduka Weerasekara,  
No.80,  
Chitra Lane,  
Colombo 05.

8. Sanjeewa Lakpriya Samaranayake  
No.197/2,  
High Level Road,  
Colombo 06.

**Accused**

**AND NOW BETWEEN**

Attorney General of the Democratic Socialist  
Republic of Sri Lanka, Attorney General's  
Department, Colombo 12.

**Complainant-Petitioner**

**Vs.**

1. Tyutkalo Vitaly, No.100, Pamunugama  
Road, Dungalpitiya Beach, Pitipana South,  
Aluthkuruwa, Negambo.

2. Sea Consortium Lanka (Pvt) Ltd, No.256,  
Sri Ramanathan Mawatha, Colombo 02.

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7. Panduka Weerasekara, No.80, Chitra Lane,  
Colombo 05.

8. Sanjeewa Lakpriya Samaranayake  
No.197/2, High Level Road, Colombo 06.

**Accused-Respondents**

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

**Counsel :** Madhawa Tennakoon ASG with Fazrly Razick DSG, Malik Azeez, SC,  
Rushami Wickramagama SC, and G. Wijenayaka for the Petitioner

Nipun Wimalasekara with Niranjan De Silva, Shane Forster, and Daham  
Siriwardena for the 1<sup>st</sup> Accused-Respondent

Sarath Jayamanne, PC with Asith Siriwardena, Vineshka Mendis, Prashan  
Wichramaratne, Sajeewa Meegahawaththa, Dinindu Rathnayaka and  
Himalshi Fernando for the 2<sup>nd</sup> Accused-Respondent

Chaminda Athukorala with Kasun Sarathchandra, Ajitha Lokubandara,  
Bethmi Balasuriya, and Senuri Vidanapathirana for the 3<sup>rd</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>,  
Accused-Respondents

Anil Silva PC with Suren Gnanaraj, S Weeraratne, and A. Dharmasena for  
the 4<sup>th</sup> and 5<sup>th</sup> Accused- Appellant.

**Supported**

**On:** 31.03.2026

**Order On:** 30.04.2026

## ORDER

**B. Sasi Mahendran, J.**

This revision application has been filed by the Complainant-Petitioner, Honourable Attorney General (hereinafter referred to as the Petitioner), invoking the revisionary jurisdiction of this court, seeking the following reliefs prayed in the petition dated 11<sup>th</sup> March 2026.

- i. Issue Notice on the Accused-Respondents;
- ii. Call for and examine the case record of the High Court of Colombo in Case No. 4118/2022;
- iii. Set aside/vary the Order dated 23.02.2026 delivered by the High Court of Colombo in the case No. 4118/2022 in respect of the document styled "s Interim Report of the Environmental Damage Assessment of the MV X-Press Pearl Maritime Disaster - Internal Draft - 06.12.2021 (Confidential)";
- iv. Set aside/vary the Order dated 23.02.2026 delivered by the High Court of Colombo in the case No. 4118/2022 in respect of the document styled "2<sup>nd</sup> interim Report of the Environmental Damage Assessment of the MV X-Press Pearl Maritime Disaster";
- v. Make Order directing the High Court of Colombo to allow the Petitioner to include the document styled "1" Interim Report of the Environmental Damage Assessment of the MV X-Press Pearl Maritime Disaster - Internal Draft - 06.12.2021 (Confidential)" to the List of Productions of the Indictment;
- vi. Make Order directing the High Court of Colombo to allow the Petitioner to include the document styled "2<sup>nd</sup> Interim Report of the Environmental Damage Assessment of the MV X-Press Pearl Maritime Disaster" to the List of Productions of the Indictment;
- vii. Set aside/vary the Order dated 09.03.2026 delivered by the High Court of Colombo in the case No. 4118/2022;
- viii. Issue an order staying the proceedings before the High Court of Colombo in Case No. 4118/2022 until the final determination of this application;
- ix. In the alternative to Prayer (viii) above, issue an order directing the learned High Court Judge to stay the examination of Prosecution Witness No. 57 namely Prof. Ajith de Alwis until the final determination of this application

and to proceed with further trial in Case No. 4118/2022 by allowing the Petitioner to call such other prosecution witnesses;

- x. Grant costs; and,
- xi. Grant such other and further relief

The purpose of filing this revision application is that the Learned High Court Judge rejected the Petitioner's appeal, holding that the Petitioner has no statutory right of appeal against the impugned order.

**The facts and circumstances of this case are as follows,**

According to the petition, acting in terms of Section 50 of the Marine Pollution Prevention Act, No. 35 of 2008, the Petitioner filed an indictment dated 04.11.2022 before the High Court of Colombo against the Accused- Respondents (hereinafter referred as the Respondents), alleging that they had committed offences under Sections 26(a) read with Section 58(a) of the Act.

Subsequently, the Petitioner led and concluded the evidence of several witnesses, and during the trial, moved to produce the following documents.

1. 1<sup>st</sup> Interim Report of the Environmental Damage Assessment of the MV X-Press Pearl Maritime Disaster - Internal Draft - 06.12.2021 (Confidential)
2. 2<sup>nd</sup> Interim Report of the Environmental Damage Assessment of the MV X-Press Pearl Maritime Disaster.

According to the Petitioner, the learned High Court Judge refused the application in respect of the "2<sup>nd</sup> Interim Report of the Environmental Damage Assessment of the MV X-Press Pearl Maritime Disaster" without providing any reasons.

Being aggrieved by the said order dated 23 February 2026, the Petitioner filed a petition of appeal on 6 March 2026 in terms of Section 15(b) of the Judicature Act No. 2 of 1978. On 9 March 2026, the Learned High Court Judge informed the court that he had rejected the petition of appeal, refused the application to stay the proceedings, and decided to proceed with the case. Thereafter, the Petitioner moved for an adjournment of the trial.

The Petitioner has filed this application seeking revision and to set aside the order dated 9 March 2026.

When the matter was supported on 31 March 2026, counsel appearing for all the Respondents objected to the issuance of formal notices to the Respondents, contending that there is no provision for the Petitioner to file a petition of appeal against the said interlocutory order. Both parties thereafter made oral submissions.

This order is directly relevant to the question of whether the Petitioner, the Honourable Attorney General, possesses a right of appeal under Section 15(b) of the Judicature Act, as amended by Act No. 34 of 2022.

Section 15 (b) of the Judicature Act reads as follows,

*“(b) in all cases on the ground of inadequacy or illegality of the sentence imposed or illegality of any other order of the High Court of the Republic of Sri Lanka or High Court for the province established by Article 154P of the Constitution.”*

The above section gives the legal right to file a petition of appeal to the Attorney General for the following purposes:

- a. Inadequacy or illegality of the sentence imposed
- b. The illegality of **any other order**

The term any other order refers to interlocutory orders made prior to the pronouncement of judgment. It must be borne in mind that the Attorney General is the authority responsible for preparing an indictment after perusing the evidence and documents. If such an order is made in isolation, the Attorney General should be afforded an opportunity to correct that order in order to proceed with the trial. Otherwise, if the order is not canvassed, the Attorney General may encounter difficulty in proceeding with the trial. That may be the reason why the legislature has vested the Attorney General with the power to prefer an appeal against any order.

Recently, His Lordship Obeyesekera J, in *Director General, Commission to Investigate Allegations of Bribery or Corruption v Sandresh Ravindra Karunanayake and another*, SC Appeal 61/2024, decided on 30<sup>th</sup> May 2025 at page 26, has interpreted Section 15 as follows,

*“Thus, the Attorney General has been conferred with a statutory right of appeal not only with regard to the inadequacy or illegality of the sentence imposed but also with regard to the illegality of any other order of the High Court.”*

I am mindful that counsel for the Respondents has referred to the following cases to support their contention. *Director General Commission to Investigate Allegations of Bribery or Corruption v Rathnayake Mudiyanseelage Chandrasiri Thennakoonwela and others*, SC/TAB/04/2023, Decided On 07.10.2024, *Ravi Karunanayake v Attorney General and others*, CA (PHC) APN 66/2010, Decided On 26.05.2010, and *Director General Commission to Investigate Allegations of Bribery or Corruption v Sandresh Ravindra Karunanayake and another*, SC Appeal 61/2024, Decided On 30.05. 2025.

It should be noted that all three cases cited by the Respondent concern the right of appeal available to an accused. I wish to emphasize further that Section 316 of the Criminal Procedure Code expressly provides that any judgment or order of a criminal court is appealable, except as otherwise provided by this Code or by any other law for the time being in force.

My understanding is that the order referred to in the said section pertains to Section 15(b) of the Judicature Act. This is because Section 14 deals exclusively with judgments, whereas Section 15 addresses any judgments along with an order.

I hold that there is a matter requiring consideration, since this is a revision application. The purpose of revision is to ensure the due administration of justice.

For the above-mentioned reasons, I issue notice to the Respondents.

**JUDGE OF THE COURT OF APPEAL**

**Amal Ranaraja, J.**

**I AGREE**

**JUDGE OF THE COURT OF APPEAL**