

**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 Articles 138 of the
Constitution of the Democratic Socialist
Republic of Sri Lanka.

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

COMPLAINANT

Court of Appeal

Revision Application No :

CA/CPA/30/2026

High Court of Colombo

Case No. HC/5061/2024

Vs.

W.R.W.A.K. Dhananjaya
Hathurusinghe
63, Epitamulla Road,
Ethulkotte.

ACCUSED

AND NOW BETWEEN

Eraj Harish Tennekoon
10/1A, Albert Perera Mawatha,
Nawala Road, Nugegoda.

AGGRIEVED PARTY-
PETITIONER

Vs.

1. W.R.W.A.K. Dhananjaya
Hathurusinghe,
63, Epitamulla Road,
Ethulkotte.

ACCUSED-RESPONDENT

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

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

Counsel: Saliya Peiris, PC, with Dinithi Jayasinghe for the Aggrieved Party

Supported: 05.05.2026

On

Order On: 08.06.2026

ORDER

B. Sasi Mahendran, J.

This is a revisionary application filed by the Aggrieved Party-Petitioner (hereinafter referred to as "the Petitioner"), invoking the revisionary jurisdiction of this court, seeking to revise and set aside the sentences imposed by the Learned High Court Judge of Colombo dated 15.07.2025, bearing No. HC/5061/2024, which is marked as P16.

According to the Petitioner, the Accused-Respondent (hereinafter referred to as the 'Respondent') was indicted before the High Court of Colombo on four counts under Sections 300 and 328 of the Penal Code. Subsequently, the prosecution amended the first count, substituting it with a lesser charge under Section 329. Thereafter, the Respondent pleaded guilty to the charge. Following submissions made by all parties, including the Petitioner, who is the victim, the Court, by judgment dated 15.07.2025, convicted the Respondent and imposed sentences together with a fine and an order for compensation.

1. First Charge - Convicted under Section 329 of the Penal Code and sentenced to two years of rigorous imprisonment, suspended for a period of seven years, and fined Rs. 1,000/-, with a default sentence of one month's imprisonment. Additionally, ordered to pay Rs. 1,000,000/- as compensation, and in default of such payment, to undergo rigorous imprisonment for one year.
2. Second Charge - Convicted under Section 328 of the Penal Code. Sentenced to six months of rigorous imprisonment, suspended for a period of seven years, and fined Rs. 100/-. Additionally, ordered to pay Rs. 250,000/-

as compensation, and in default of such payment, to undergo rigorous imprisonment for one year.

3. Third Charge - Convicted under Section 328 of the Penal Code. Sentenced to six months of rigorous imprisonment, suspended for a period of seven years, and fined Rs. 100/-. Additionally, ordered to pay Rs. 250,000/- as compensation, and in default of such payment, to undergo rigorous imprisonment for one year.

4. Fourth Charge Convicted under Section 328 of the Penal Code. Sentenced to six months of rigorous imprisonment, suspended for a period of seven years, and fined Rs. 100/-. Additionally, ordered to pay Rs. 250,000/- as compensation, and in default of such payment, to undergo rigorous imprisonment for one year.

The Petitioner has invoked the jurisdiction of this Court by way of revision, seeking to revise the impugned sentencing order. I am mindful that this is a revision application, which must be entertained only in exceptional circumstances that shock the conscience of the Court. Furthermore, if the party establishes that a miscarriage of justice has occurred as a result of a procedural violation.

The question that arises is: what is the procedure governing the imposition of sentence? The relevant statutory provision that impacts the sentencing discretion is Section 13 of the Code of Criminal Procedure Act No. 15 of 1979, which stipulates that:-

"The High Court may impose any sentence or other penalty prescribed by written law".

In the instant case, the said sentence or penalty prescribed by written law is found in sections 328 and 329 of the Penal Code, which read as follows.

328. Whoever cause hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may

extended to six months, or with fine which may extended to one hundred Rupees, or with both.

329 Whoever causes grievous hurt to any person by doing any act to rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extended to two years, or with fine which may extended to one thousand Rupees, or with both.

The issue to be determined is whether the sentence imposed by the Learned High Court Judge was disproportionate. It is a settled principle that the trial judge possesses sole discretion in the matter of sentencing. Nevertheless, a difficulty arises when the accused enters a plea of guilty, as the judge is thereby deprived of the opportunity to evaluate facts that would ordinarily surface through the process of adducing evidence. In such circumstances, the judge is unable to ascertain the manner in which the offence was committed, the credibility of the witnesses, or the authenticity of the accounts provided by those affected by the crime.

Upon reviewing the impugned order of the Learned High Court Judge, it is evident that he has provided reasons for suspending the sentence and has also taken into account Section 61(4) of the Assistance to and Protection of Victims of Crime and Witnesses Act No. 10 of 2023.

Upon perusing the petition, it appears that the grievance of the Petitioner is that the Learned High Court Judge has not adequately compensated him. It is pertinent to produce the relevant portion of the impugned judgment.

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එසේ කිරීමේදී දණ්ඩ නීති සංග්‍රහයේ 329 වන වගන්තිය යටතේ දක්වා ඇති විධි විධාන අනුව වගන්තියේ සඳහන් වරද සඳහා වරදකරු වන තැනැත්තෙකුට නියම කළ යුතු දඩුවම ලෙස දණ්ඩ නීති සංග්‍රහයේ එකී වගන්තිය මඟින් විධි විධාන සලස්වා ඇත්තේ වසර දෙකක් දක්වා දිව යන පරිදි දෙයාකාරයෙන් එක් ආකාරයක සිර දඩුවමක් හෝ දඩයක් හෝ එනම් රු 1000 දක්වා වන පරිදි දඩයක් හෝ එම දඩුවම් දෙකෙන්ම දඩුවම් කළ යුතුය වශයෙනි. ඒ අනුව මෙම නඩුවේ 01 වන චෝදනාවට වූදින වරදකරු කර ඇති හෙයින්, එම වගන්තියේ සඳහන් ආකාරයට දඩුවම් නියම කිරීමට කටයුතු කරන අතර , එහිදී වූදින මුල් අවස්ථාවේදී වරද පිලිගැනීම, වරද

පිලිගැනීමේ එකඟතා ගිවිසුම අපරාද නඩු විධාන සංග්‍රහය පනතේ 197 (A) වගන්තිය යටතේ වන විධි විධාන පරිදි ගොනු කොට වරදකරු කර තිබීම, වින්දිතයින්ට වන්දි ලබා දීම සඳහා වූදිනගේ කැමැත්ත ස්වේච්ඡාවෙන්ම ප්‍රකාශ කර තිබීම යන කරුණු සියල්ල සලකා බලා දඬුවම් නියම කරන අතර, ඒ අනුව 329 වන වගන්තියේ සඳහන් ආකාරයට වූදිනට වසර දෙකක බරවැඩ සහිත සිරදඬුවමක් නියම කොට එම වසර 07 ක කාලයකට අත් හිටුවීමට නියම කරමි. අමතර වශයෙන් රු 100/= ක දඩයක් නියම කරන අතරල එම රු 1000ක දඩය නොගෙවන්නේ නම් ඒ වෙනුවට මාසයක ලිහිල් වැඩ සහිත සිර දඬුවම් ක්‍රියාත්මක විය යුතුය.

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පවතින කරුණු සලකා බලා වූදිනට එරෙහිව පැමිණිල්ලේ සාක්ෂි අංක එක හෙවත් 01 වන අධි චෝදනාවේ සඳහන් වින්දිත තැනැත්තා වන එරාජ් හර්ෂ තෙන්නකෝන් යන අයට රුපියල් ලක්ෂ 10 ක වන්දි මුදලක් ගෙවිය යුතු බවට නියම කරමි. එම වන්දි මුදල නොගෙවන්නේ නම් ඒ වෙනුවට වූදිනට වසර 01 ක බර වැඩ සහිත සිර දඬුවමක් ක්‍රියාත්මක විය යුතු බවටත් නියෝග කරමි.

I am mindful that the High Court functions as a criminal court, where it is within its purview to consider whether the accused acted with *mens rea* and *actus reus*.

For the foregoing reasons, I hold that the Learned High Court Judge has correctly imposed the sentence against the Respondent, and the Petitioner has failed to establish any bias in the exercise of the Court's discretion.

Accordingly, the application is dismissed

JUDGE OF THE COURT OF APPEAL

Amal Ranaraja, J.

I AGREE.

JUDGE OF THE COURT OF APPEAL