

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

*In the matter of an appeal under and in  
terms of Article 138 of The Constitution.*

**Court of Appeal No:**

CA (PHC) 0084/2018

Officer-in-charge

Police Station,

Hambantota.

**Provincial High Court**

**Hambantota**

Case No. HCRA 08/2013

**COMPLAINANT**

**Vs.**

**Magistrate's Court Hambantota**

Case No. 77511

1. Mohomed Raffick Mohomed Razni,

No. 19, Suchi Village,

Hambantota.

2. Senarath Arachchige Nihal

Halmillawa,

Tissamaharamaya.

**ACCUSED**

**AND**

Loku Gamage Lalith Chandra,  
No. 40, Kudagammana ,  
Welihena.

**PETITIONER**

**Vs.**

1. Officer-in-charge

Police Station,

Hambantota.

2. Hon. Attorney General

Attorney General's Department,

Colombo 12.

**RESPONDENTS**

**AND NOW BETWEEN**

Lokugamage Lalith Chandra,

No.40, Kudagammana ,

Welihena.

**PETITIONER-APPELLANT**

**Vs.**

1.The Officer-in-charge  
Police Station,  
Hambantota,  
3. Hon. Attorney General  
Attorney General's Department,  
Colombo 12.

**RESPONDENT-RESPONDENTS**

**Before** : Sampath B. Abayakoon, J.

: P. Kumararatnam, J.

**Counsel** : Migara Kodithuwakku instructed by Manjula  
Kalupahana for the Petitioner-Appellant

: I.M.M Fahim, S.C. for the State.

**Argued on** : 27-10-2023

**Written Submissions** : 18-05-2022 (By the Accused-Appellant)

: 15-11-2022 (By the Respondents)

**Decided on** : 28-02-2024

**Sampath B. Abayakoon, J.**

This is an appeal preferred by the petitioner-appellant (hereinafter referred to as the appellant) on the basis of being aggrieved by the judgement dated 10-05-

2018 of the learned High Court Judge of the Provincial High Court of Southern Province Holden in Hambantota.

From the impugned judgement, the learned High Court Judge has dismissed the revision application filed by the appellant seeking to challenge an order pronounced by the learned Magistrate of Hambantota on 26-06-2013, wherein the learned Magistrate has ordered the appellant to deposit Rs. One million based on his failure to produce a vehicle handed over to him on a bail bond of one million rupees.

This is a case where this Court previously dismissed the appeal as the appellant has failed to appear before the Court and pursue his appeal with due diligence.

However, upon an application to relist the appeal, this Court allowed the relisting and heard the learned Counsel for the appellant, as well as the learned State Counsel who represented the respondents-respondents.

The learned Counsel for the appellant at the very beginning of the argument on this matter informed the Court that he will be relying on the written submissions filed in that regard. However, the learned Counsel also conceded that he has a very poor case to argue before this Court. The learned State Counsel made submissions justifying the judgement of the learned High Court Judge as well as the order of the learned Magistrate of Hambantota.

This is a case where a person has been charged before the Magistrate's Court of Hambantota for having transported cattle without a valid permit obtained from the relevant authority, and thereby committing an offence punishable in terms of the Animals Act.

The said accused has pleaded guilty to the charge against him and had been sentenced. The learned Magistrate has confiscated the cattle that was illegally transported and has decided to hold an inquiry as to whether the vehicle involved in transportation of cattle, namely, vehicle number SP-LE-5212, allowing the

registered owner of the vehicle to show cause as to why the vehicle should not be confiscated in terms of section 3 of the Animals Act.

By that time, the said vehicle had been in the custody of its registered owner as the vehicle had been released previously on a bond.

When the matter was taken up for inquiry, there had been a confusion as to whom the vehicle had been released, and the learned Magistrate has directed the Registrar of the Magistrate's Court to hold an inquiry and report to whom the vehicle was released on a bond. It has been reported to the Court that the vehicle had been released to Lokugamage Lalith Chandra as the registered owner on a bond of Rs. 1 Million rupees. The present appellant is the said registered owner mentioned. The said vehicle has been released to the said Lalith Chandra on 26-02-2007.

When the appellant was notified to appear before the Court, he has initially denied that the vehicle was released to him, but upon inquiry, he has admitted that the vehicle was released to him, but has stated that he sold the vehicle and unable to produce the it for the purposes of the inquiry.

As the person who took charge of the vehicle as its registered owner, namely the appellant, has failed to produce the vehicle for the purpose of the inquiry, the learned Magistrate who was unable to hold the inquiry without the vehicle, has decided to order the registered owner of the vehicle, namely the appellant, to deposit the value of the bond upon which he got the vehicle released and admittedly sold.

It is against this order that the appellant has preferred the mentioned revision application before the Provincial High Court of Southern Province Holden in Hambantota.

The learned High Court Judge of Hambantota after having considered the relevant facts and the circumstances had found no reason to interfere with the order of the learned Magistrate.

Accordingly, the revision application has been dismissed. It is against this judgement and the order of the learned Magistrate of Hambantota; the appellant has preferred this appeal.

Having considered the relevant facts and the circumstances, and the law that led to the order of the learned Magistrate, it is the view of this Court that the learned Magistrate has followed the correct procedure when deciding to order the appellant to pay the value of the bond he executed. It is clear from the case record that it had been the appellant who has taken charge of the vehicle after signing the bail bond for a value of one million rupees.

When he was required to produce the vehicle for the purposes of the inquiry, initially he has attempted to mislead the Court, making use of a situation that existed then by saying that it was not he who got the vehicle released, but the finance company who had a finance leasing agreement in relation to the vehicle. Upon inquiry, it has been established that it was not so, and it was the appellant who got the vehicle released based on a bond of Rs. one million.

It has also been established that the vehicle in question was a vehicle used in several occasions previously in committing similar offences, which may be the very reason why the appellant has disposed of the vehicle after getting it released on a bond.

As the appellant has failed to produce the vehicle as required for the purpose of the inquiry, the learned Magistrate had no option but to order the appellant to pay the agreed sum mentioned in the bail bond. The learned High Court Judge after having considered the relevant facts, circumstances and the law has come to a correct finding in that regard.

The appeal is dismissed for the reasons considered above, as I find no merit in the appeal preferred.

The Registrar of the Court is directed to communicate this judgement to the Provincial High Court of Hambantota along with the original case record.

The Registrar is also directed to forward a copy of this judgement to the Magistrate's Court of Hambantota for necessary implementation purposes.

Judge of the Court of Appeal

**P. Kumararatnam, J.**

I agree.

Judge of the Court of Appeal