

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.

The Attorney General
Attorney Generals Department
Colombo 12.

Court of Appeal Case No:

Complainant

CA/CPA/103/23

HC of Colombo Case No: HC 2889/2

Vs.

Sivababdan Muralidaran

Accused

AND NOW BETWEEN

Mohamed Hussaindeen Neeza

Registered- Owner

Vs.

The Attorney General
Attorney Generals Department
Colombo 12.

Complainant-Respondent

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

Counsel: Tenny Fernando for the Petitioner
 Jehan Gunasekara, SC for the Respondents

Argument On: 22.05.2025

Decided On: 07.07.2025

JUDGMENT

B. Sasi Mahendran, J.

The Registered–Owner–Petitioner (hereinafter referred to as the Petitioner) filed this application on 06.09.2023, seeking to set aside the order of the High Court of Colombo dated 16.06.2023.

According to the Petitioner, the Accused, Shivanandam Muralidaran, was indicted before the High Court of Colombo under indictment number HC 2889/21 for the possession and trafficking of 24.816 kilograms of Cannabis Sativa, allegedly committed on or around 2nd May 2020, in violation of the Poisons, Opium and Dangerous Drugs Ordinance No. 13 of 1984, as amended.

On 7th February 2023, the Accused pleaded guilty, following which the Learned High Court Judge convicted and sentenced him. Subsequently, notice was issued to the Petitioner, as she had signed the bond in connection with the vehicle inquiry, which was held on 16th June 2023.

In her testimony before the High Court, the petitioner stated that she had previously sold the vehicle to her late brother, who had subsequently leased it to a third party prior to the incident. She further affirmed that the vehicle had been released to her by the court under a bond valued at five million. As she is presently unable to produce the vehicle before the court, she agreed to pay four million in partial fulfilment of the bond obligation.

The Courts have consistently held that the remedy of revision is discretionary and will not be exercised unless the application reveals circumstances amounting to a miscarriage of justice.

According to the order dated 16.06.2023, the learned High Court Judge observed that the petitioner agreed to pay four million rupees from the bond, as she was unable to produce the vehicle.

It is noted that the petitioner had entered into an agreement before the Court, undertaking to pay a sum of four million. However, she is now contesting the order issued by the learned High Court Judge, which was made based on the assurance she herself provided. In my view, this constitutes a withdrawal from the undertaking given to the Court and amounts to a breach of contract.

The conduct of the Petitioner is a pertinent factor in the determination of this application.

Peera v. The People's Bank, 1995 (2) SLR 84 at page 87, G.P,S.de Silva,CJ

“In any event, revision is a discretionary remedy and the conduct of the defendant is a matter which is intensely relevant. I hold that the conduct of the defendant disentitles him to relief by way of revision in the facts and circumstances of this case.”

For the foregoing reasons, I hold that the petitioner is not entitled to invoke the revisionary jurisdiction of this court.

Application dismissed. I order Rs. 50,000.00 as a state cost.

JUDGE OF THE COURT OF APPEAL

Amal Ranaraja, J.

I AGREE

JUDGE OF THE COURT OF APPEAL