

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

In the matter of an appeal from the
High Court in terms of Section 331 of
the Code of Criminal Procedure Act.

Court of Appeal

Case No- CA/HCC/310-318/2019

High Court of Jaffna

Case No- HC 2209/2017

The Democratic Socialist Republic of
Sri Lanka

Complainant

Vs.

1. Mohamed Najimudin Mohamed Shiyam
2. Mohamed Ibrahim Marikkar Mohamed Jiffri
3. Mohamed Saheed Mohamed Hilmy
4. Mohamed Faisal Mohamed Fazlu
5. Warnakulasooriya Jude Janaka Fernando
6. Dawood Shaki Mohamed Azan
7. Herath Pathiranalage Chandana Kumaratunge
8. Sarijohn Mohamed Rizwan
9. Abdul Raheed Mohamed Nizamdeen

Accused

And Now Between

01. Mohamed Najimudin Mohamed Shiyam
02. Mohamed Ibrahim Marikkar Mohamed Jiffri
03. Mohamed Saheed Mohamed Hilmy
04. Mohamed Faisal Mohamed Fazlu
05. Warnakulasooriya Jude Janaka Fernando
06. Dawood Shaki Mohamed Azan
07. Herath Pathiranalage Chandana Kumaratunge

08. Sarijohn Mohamed Rizwan

09. Abdul Raheed Mohamed Nizamdeen

Accused-Appellants

Vs

The Hon. Attorney General

Attorney General's Department,

Colombo 12

Complainant-Respondent

Before: **N. Bandula Karunarathna J. P/CA**

&

M. Ahsan R. Marikar, J.

Counsel: Dr. Ranjith Fernando with Champika Monarawila AAL and
Maleesha Meera AAL for the 01st Accused-Appellant.

Indica Mallawaratchy for the 02nd Accused-Appellant.

Mr. Tenny Fernando for the 3rd, 4th, 6th, 8th and 9th Accused-
Appellants.

Ashan Nanayakkara for the 5th Accused-Appellant.

Sanath Weerasinghe with Jayalath Hissella for the 7th
Accused-Appellant.

Riyaz Bary, DSG for the Respondent.

Written Submissions: By the 2nd Accused-Appellant on 09.05.2022

By the 5th Accused-Appellant on 22.08.2022

By the 7th Accused-Appellant on 05.04.2022

By the Complainant-Respondent on 25.05.2022

Argued on : **23.05.2023**

Decided on : **17.11.2023.**

N. Bandula Karunarathna J. P/CA

Accused-Appellants are not challenging the conviction. They are contesting only the sentence. All counsel made their submissions regarding the excessive sentence imposed against the accused-appellants in regard to the 3rd count of the indictment. They request from this Court to re-consider the sentence imposed on the 3rd count and to reduce the sentence enabling them to go back to the society and to join their family members.

Learned Counsel for the Appellants says that they are not having any previous convictions. They promise this Court that they will not involve in any criminal activities again in the future.

Further the learned Counsel on behalf of all the accused-appellants informs court that the sentence be back dated as they were in custody since 25.10.2019.

Considering the circumstances, of the case and the submissions made by the learned Counsel on behalf of the accused-appellants, we decide to reduce the sentence for the 3rd count as it is excessive.

We now impose 5 years Rigorous Imprisonment for the 3rd count for all the accused-appellants.

The sentence for the 1st and 2nd counts will remain the same.

Fine which was imposed for all 3 counts will also not be changed. Default terms also will remain the same.

The new sentences are as follows;

1. For the 1st count 5 months Rigorous Imprisonment and Rs.2,000/- fine, in default 2 months simple imprisonment.
2. For the 2nd count 5 years Rigorous Imprisonment and Rs.5,000/- fine, in default 5 months simple imprisonment.
3. For the 3rd count 5 years Rigorous Imprisonment and Rs.10,000/- fine, in default 10 months simple imprisonment.

All sentences should run concurrently with effect from 25.10.2019.

Registrar is directed to send a copy of this judgment to the High Court of Jaffna along with the main case record.

Copy of the judgment should be sent to the Prison Authorities for necessary action.

President of the Court of Appeal

M. Ahsan R. Marikar, J

I agree.

Judge of the Court of Appeal