

1961

*Present*: H. N. G. Fernando, J.

G. K. T. PERERA, Petitioner, and M. I. BUHARY (Inspector of Police),  
Respondent

*Application for Revision in M. C. Gampaha, 63074/A*

*Sentence—Imposition of maximum fine—Duty of Court to consider means of accused and his excuse, if any.*

The accused-petitioner pleaded guilty to a charge of possessing an unlicensed revolver and was sentenced to pay the maximum fine of Rs. 2,500.

*Held*, that before imposing so large a fine some inquiry should have been made as to the means of the accused and as to the excuse, if any, which he could have put forward to avert so serious a punishment.

**A**PPPLICATION to revise an order of the Magistrate's Court, Gampaha.

*Frederick W. Obeyesekere*, for the Accused-Petitioner.

*D. W. Abeyakoon*, Crown Counsel, for the Attorney-General.

September 7, 1961. H. N. G. FERNANDO, J.—

The petitioner pleaded guilty to a charge of possessing an unlicensed revolver and has been sentenced to pay the maximum fine of Rs. 2,500. The petitioner is apparently a man of 65 years of age who states that he purchased the revolver after there had been a burglary at his house in September, 1958. The Police apparently came to know that the petitioner possessed a revolver only because he had used the revolver when he had been set upon and assaulted, apparently with the motive of robbery, in February, 1959. In consequence of that incident he stood a trial for murder at the Negombo Assizes at the end of which he was ordered to be detained till the rising of the Court. The present charge for the possession of the revolver is a sequel to that case.

The Magistrate had not before him any material upon which he could properly have assumed that this petitioner would be able to pay so large a fine. Before imposing such a fine some inquiry should have been made as to the means of the petitioner and as to the excuse, if any, which he could have put forward to avert so serious a punishment.

The fine is reduced to one of Rs. 100 and I order the forfeiture to the Crown of the revolver.

*Sentence reduced.*