

## [COURT OF CRIMINAL APPEAL]

1971 *Present*: H. N. G. Fernando, C.J. (President), Samerawickrame, J.,  
and de Kretser, J.

K. B. PIYASENA, Appellant, *and* THE QUEEN,  
Respondent

C. C. A. No. 39 OF 1971, WITH APPLICATION No. 53

*S.C. 174/70—M.C. Gampaha, 37211/A*

*Trial before Supreme Court—Accused person's election to be tried by an English-speaking Jury—Trial conducted mainly in Sinhala—Irregularity.*

It is improper for a trial before the Supreme Court to be conducted mainly in Sinhala when the accused has elected to be tried by an English-speaking Jury.

**A**PPPEAL against a conviction at a trial before the Supreme Court.

*M. Nassim* (assigned), for the accused-appellant.

*P. Colin Thome*, Senior Crown Counsel, for the Crown.

---

August 3, 1971. H. N. G. FERNANDO, C.J.—

This was another case in which a trial was conducted mainly in Sinhala, although the accused had elected to be tried by an English-speaking Jury. Following the judgment in the Privy Council in *Hemapala v. The Queen*<sup>1</sup>, we were compelled to set aside the verdict and sentence and order a fresh trial.

*Sent back for fresh trial.*

