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

In the matter of an application for Restitution, in the nature of *Restitutio-In-Integrum* under and in terms of Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka,

Court of Appeal
Case No: RII/0032/2025

MC Negombo
Case No: 18203/24

Officer-in-Charge
Police Station,
Katana

Complainant

Vs

Kachchakaduge Samantha Fernando
No. J/50, Molawaththa,
Galmankada,
Kimbulapitia

Accused

And Now Between

Kachchakaduge Samantha Fernando
No. J/50, Molawaththa,
Galmankada,
Kimbulapitia

Accused -Petitioner

Vs.

1. Officer-in-Charge
   Police Station
   Katana.

Plaintiff-Respondents

2. Hon. Attorney General
   Attorney Generals' Department
   Colombo 12.

Respondent

Before : R. Gurusinghe, J.
&
Dr. S. Premachandra, J.

Counsel : Chathura Amarathunga
for the Accused-Petitioner

Argued on : 02-06-2025

Decided on : 26-06-2025

ORDER

R. Gurusinghe, J.

The accused-petitioner filed this application, seeking, *inter alia*, to revise and set aside the order of the Learned Magistrate of Negombo dated 24-12-2024.

The petitioner states that he is a licensed supplier of explosives under the provisions of the Explosives Act No. 21 of 1956. His wife is a licensed manufacturer of classes of explosives under the Explosive Act. The petitioner states that, as a result of heavy rain in November and December 2024, he had to move 25 kilogrammes of Potassium Nitrate from his store to his house, with the acknowledgement of the relevant authority. Petitioner produced X4 as the acknowledgement letter dated 09/12/2024. However, letter X4 is not an acknowledgement from the relevant authorities. X4 is a letter written by the petitioner to the relevant authority. There is no evidence to show that X4 was actually sent to the relevant authorities. The petitioner has failed to produce any acknowledgement from the relevant authorities granting permission or ratifying the actions he had already taken.

The petitioner was charged on 24-12-2024 under Section 30 of the Explosives Act, No. 21 of 1956, as amended by Act No. 18 of 2005, for contravening Section 30 of the Act by keeping 50 kilogrammes of Potassium Nitrate in contravention of the conditions in the license. Petitioner states that he had no legal representation. The petitioner pleaded guilty, and upon his plea, he was convicted and fined Rs. 10,000/-. The petitioner filed this application almost after 5 months that is on May 27, 2025.

A *Restitutio-in-Integrum* is an extraordinary remedy and will be granted under exceptional circumstances. The petitioner has failed to demonstrate exceptional circumstances. A party seeking restitution must act with utmost promptitude. The petitioner filed this application five months after the conviction, without providing an explanation for the delay. The court will not relieve parties of the consequences of their own folly, negligence or laches. (Vide *Sri Lanka Insurance Corporation vs. Shanmugam [1995] 1 Sri LR 55*).

Relief by way of *Restitutio-in-Integrum* in respect of judgments of original courts may be sought: (a) where judgments have been obtained by fraud by the production of false evidence, non-disclosure of material facts or by force; or (b) where fresh evidence has cropped up since judgments, which was unknown earlier to the parties relying on it or which no diligence could have helped to disclose earlier, or (c) where judgments have been pronounced by mistake and decrees entered thereon, provided, of course, it is an error which connotes a reasonable and excusable error. (Vide *Sri Lanka Insurance Corporation vs. Shanmugam [1995] 1 Sri LR 55*).

In this application, the petitioner states that the order of the Learned Magistrate is contrary to the accepted legal principles of a fair trial. However, the petitioner failed to show which legal provisions or principles were contravened by the order of the Learned Magistrate.

The Learned Magistrate convicted the petitioner on his own plea. A fine of Rs. 10,000/- is not illegal according to Section 30 of the Explosives Act, as amended by Act No. 18 of 2005. If the petitioner had wanted to contest the charge, he could have pleaded not guilty.

For the reasons stated, we see no sufficient grounds for the issuance of formal notice on the respondents. Therefore, notice is refused. The application is dismissed.

Judge of the Court of Appeal

Dr. S. Premachandra, J.
I agree.

Judge of the Court of Appeal