

[COURT OF CRIMINAL APPEAL.]

1944 Present: Howard C.J., Moseley S.P.J. and Wijeyewardene J.

THE KING *v.* V. M. KANDAWANAM.

8—*M. C. Point Pedro, 2,730.*

Court of Criminal Appeal—Application for extension of time within which to appeal against conviction and sentence—Practice of the Court.

An application for leave to appeal out of time will not be granted by the Court of Criminal Appeal unless the Court is satisfied upon the application that there are such merits in the application that the appeal would probably succeed.

THIS was an application for leave to appeal out of time.

Applicant in person in support.

May 15, 1944. HOWARD C.J.—

This is an application for leave to appeal against a conviction for attempted culpable homicide not amounting to murder. After being found guilty, the accused was sentenced to 4 years' rigorous imprisonment. The application for leave to appeal is out of time by a period of six weeks.

This Court on previous occasions had laid down the principles on which it grants an application for an extension of time. Those principles follow the practice of the English Court of Appeal as laid down in the case of

*The King v. Lawrence Marsh and others*¹. I cannot do better than cite a paragraph of the report in that case where Avory J. said:—

“ In these circumstances, it being the rule of practice in this Court not to grant any considerable extension of time unless we are satisfied upon the application that there are such merits that the appeal would probably succeed, we are quite unable to say in this case that there was no evidence on which the applicants could properly be convicted on one at least of the counts in this indictment, therefore we do not grant the application for an extension of time.”

Now, applying those principles to the facts of this case, it would appear that the trial of the case lasted over a period of five days; the accused was defended by experienced Counsel and every aspect of the case received consideration by Counsel and the Judge and finally by the jury. It is impossible to say that the merits of this application are such that this appeal would probably succeed. The application is therefore dismissed.

Application refused.
