

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Kulasegaram, 2012 ONCA 455

DATE: 20120628

DOCKET: C53657

Rosenberg, Sharpe and Juriensz JJ.A.

BETWEEN

Her Majesty The Queen

Appellant

and

Nallathamby Kulasegaram

Respondent

Peter Scrutton, for the appellant

H. David Locke and Glen Henderson, for the respondent

Heard and endorsed: June 26, 2012

On appeal from acquittal entered on April 6, 2011, by Justice Shaun Nakatsuru of the Ontario Court of Justice.

APPEAL BOOK ENDORSEMENT

[1] This Crown appeal must be stayed. The Crown has failed to show that the effect of the ruling on the *Charter* motion was sufficiently important to the prosecution that the Crown was unable to continue. At the stage when the Crown has decided to offer no further evidence, there was no evidence about the application to the insurance company. As well, the Crown had withdrawn the charges against the co-accused so his accident report was potentially available

and his evidence was potentially available. In any event, the Crown did not show that this evidence was not available and could not have supported the expert's report. On this sparse record, allowing the Crown to proceed with this appeal would in effect be an impermissible appeal from an interlocutory order and therefore an abuse of process.