

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

CA 68/2005

HC Ampara No. 818/2003

Dasanayake Mudiyanseelage Lakshman Navarathne
No: 89,
Kuda Wewa,
Dalukana.

Appellant

Vs.

Hon. Attorney General
Attorney General's Department,
Colombo 12.

Respondent

Before : **Ranjith Silva, J.**
Nalin Perera, J.

Counsel : Sunil Abeyratne for the Accused-Appellant
Dilan Ratnanayake SSC for the A/G.

Argued &

Decided on : 01.06.2012

Ranjith Silva, J.

Counsel heard for and against this appeal.

In this case the accused-appellant was charged for the murder of his own wife by stabbing her to death. The parties were estranged for a long time. The child lived apart from the accused-appellant separately. On this particular day the deceased had during the morning hours, broke and forced open the rear door of the accused-appellant, entered his house and had removed certain items. After the accused was informed of the incident and when the wife happened on them later on the same day this incident had taken place. Just before the incident the accused had questioned the deceased wife as to the

incident that took place in the morning. When the response was an accusation levelled against the accused by the deceased wife alleging that the accused-appellant was having an affair with his own mother the accused-appellant had reacted violently. This a classic case of grave and sudden provocation.

The accused-appellant had been on remand since the date of conviction that is nearly 5 years. Considering all the facts and circumstances I set aside the conviction for murder and the death sentence imposed on the accused-appellant and substitute a conviction for culpable homicide not amounting to murder and impose a term of 12 years rigorous imprisonment on the accused-appellant. In addition we impose a fine of Rs.2500/- in default 3 months rigorous imprisonment. The sentence of imprisonment shall commence to run from the date of conviction namely 04.05.2007.

Subject to the variations in the conviction, sentence and the date of implementation the appeal is dismissed.

JUDGE OF THE COURT OF APPEAL

Nalin Perera, J.

I agree.

JUDGE OF THE COURT OF APPEAL

KLP/-