

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

CA 101/2010

HC Badulla 71/2001

Ahangama Witanalage Jayasinghe alias Hichchi Putha
Godaihalawatte,
Rohitha Mawatha,
Nakanda,
Ahangama.

APPELLANT

Vs.

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

RESPONDENT

C.A.No.101/2010

H.C.Badulla No.71/2001

Before : **Rohini Marasinghe, J.**
Deepali Wijesundera, J.

Counsel : Dr.Ranjith Fernando for the Accused-Appellant
Sarath Jayamanna DSG for the A/G.

Argued &

Decided on : 13.12.2012.

Rohini Marasinghe, J.

Learned Counsel for the State concedes that the evidence led at the trial was not sufficient for the charge of murder. We have perused the evidence led at the trial . Evidence let at the trial was briefly as follows:-

The deceased and few others had been gambling on the night of the day of the incident, at around 11'o. clock in the night there had been a fight between the deceased and few others. The accused/appellant was a one who had engaged in that fight. The death of the deceased was resulted as a result of that fight.

Learned Counsel appearing for the State agreed that the evidence led at the trial disclosed that the death had been caused as a result of a sudden fight.

We agree with the submission of the learned Counsel for State and we acquit the accused-appellant from the charge of murder. But we are of the view that accused should be convicted for culpable homicide not amount to murder based on a sudden fight under Section 297 of the Penal Code. We therefore convict the accused-appellant under Section 297 of the Penal Code and sentence him a term of 10 years rigorous imprisonment and a fine of Rs.5000/- and in default 6 months rigorous imprisonment to run consecutively to the terms of imprisonment. This sentence should take effect from the date of conviction namely 01.04.2010.

Appeal is allowed.

JUDGE OF THE COURT OF APPEAL

Deepali Wijesundera, J.

I agree.

JUDGE OF THE COURT OF APPEAL

KLP/-