

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

In the matter of an application for
Revision in terms of Article 138 of the
Constitution of the Democratic Socialist
Republic of Sri Lanka.

The Hon Attorney General
Complainant

C.A. (PHC) APN No: 152/11

Vs

High Court Kandy
Case No: HC 48/2006

Wedikkara Gedera Saranapala
Accused

And Between

Suriya Mudiyanseelage Kusuma Attanayaka
No: Kongahamula,
Palaapathwala.
Petitioner



Vs

1. Hon Attorney General,
Attorney General's Department,
Colombo 12.
Complainant –Respondent

2. Wedikkara Gedera Saranapala
No 50, Kongahamula
Palaapathwala.
Accused Respondent

Before : **Sisira de Abrew, J. &
K.T.Chitrasiri, J.**

Counsel : Dharshana Kuruppu for the Petitioner.
Anoop de Silva SC for Respondents

Argued &

Decided on : 14.06.2012

Sisira de Abrew, J.

Heard both Counsel in support of their respective cases.

The accused in this was convicted by the learned High Court Judge of Kandy on the offence of culpable homicide not amounting to murder on the basis of knowledge under Section 297 of the Penal Code. The accused was sentenced to a term of 15 years rigorous imprisonment and to pay a fine of Rs.10000/- carrying a default sentence of 06 months rigorous imprisonment. In addition to the above punishment accused was ordered to pay a sum of Rs.50000/- as compensation to the mother of the deceased carrying a default sentence of one year imprisonment.

Being aggrieved by the said sentence the petitioner, the wife of the accused filed this revision application. We note that the sentence of 15 years rigorous imprisonment imposed by the learned High Court Judge of Kandy is illegal. The maximum jail sentence that could be imposed on the accused is ten years since he was convicted on the offence of culpable homicide not amounting to murder on the basis knowledge. Therefore we note that the sentence of 15 years rigorous imprisonment is illegal.

We set aside the terms of 15 years of rigorous imprisonment and impose 10 years rigorous imprisonment on the accused. The fine and the other order for compensation remain unaltered. The learned High Court Judge is directed to issue a fresh committal indicating the sentence imposed by this Court.

Registrar is directed to forward a copy of this order to the Registrar,
2 ~~learned High Court Judge~~ of Kandy.

JUDGE OF THE COURT OF APPEAL

K.T.Chitrasiri, J.

I agree.

JUDGE OF THE COURT OF APPEAL

KLP/-