

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

In the matter of an appeal in terms of
Section 331 of the Code of Criminal
Procedure Act No.15 of 1979.

C.A.Appeal No.20/07
H.C.Balapitiya No.HCB 137

The Democratic Socialist Republic of Sri
Lanka.

Complainant.

Vs

Nigamuni Nandika Seneviratne Mendis,

Accused

And

Nigamuni Nandika Seneviratne Mendis,

Accused-Appellant

Vs.

Hon.Attorney-General,
Attorney-General's Department,
C`olombo 12.

Respondent

C.A.No.20/07

H.C.Balapitiya No. B 137

Before : **Ranjith Silva, J.**
Lecamwasam, J.

Counsel : Dr.Ranjith Fernando for the Accused-Appellant.
Kapila Waidyaratne DSG for A/G.

Argued &
Decided on : 20.10.2011

Ranjith Silva, J.

Heard both Counsel for and against this appeal.

The accused-appellant is present in Court brought in custody.

The accused was indicted in the High Court of Balapitiya for committing the murder of one Samanthuwawasam Edin on or about 18.06.1992 at Maduwa, Kosgoda within the jurisdiction of the High Court of Balapitiya. After trial he was found guilty convicted and sentenced to death.

Being aggrieved by the said conviction and the sentence accused-appellant has preferred this appeal to the Court of Appeal. The only ground of appeal is that the accused-appellant should not have been sentenced to death and in view of his subsequent conduct. In his dock statement he had admitted that he stabbed the deceased and he had shown emotional repentance from the very beginning he came to court . Therefore the Counsel

argued that the appellant should have been treated differently. He argued that this conduct shows that the appellant really did not have the intention to kill the deceased. He further argued that the accused had given only one blow with a knife which killed the deceased.

Since this is the only ground it is not necessary for this Court to discuss various aspects of the law and the judgment of the learned High Court Judge. Once when the evidence shows that the accused-appellant stabbed the deceased, that caused the death of the deceased instantly, which is sufficient to cause death in the ordinary course of nature, then the accused is guilty of murder. No person has the licence to run around stabbing persons and then say that he stabbed only once and therefore he should not be sentenced to death. When the injury caused is intentional and if that fact is proved then if that injury is sufficient in the ordinary course of nature to constitute murder to cause death, it is the objective test that is applied as it was done in *Vira Singh vs. State of Punjab* A.I.R.1958 Vol.45 at page 465 case by the Indian Supreme Court which was followed later by the Sri Lankan Courts including this Court, then the accused is guilty of murder. It is not necessary to prove the intention to murder. Therefore once murder is established then however much the accused-appellant may regret and repent that will not relieve him from his liability. There may be so many instances where, soon after the act is done, people regret for what they have done. But that will not exculpate

him from the offence. What is important and what matters is, at the time of the commission of the offence, whether it was done with the intention to cause injury sufficient to cause death in the ordinary cause of nature.

Therefore the ground of appeal cannot be sustained. Accordingly we dismiss the appeal and confirm the conviction and the sentence.

JUDGE OF THE COURT OF APPEAL

Lecamwasam, J.

I agree.

JUDGE OF THE COURT OF APPEAL

KLP/-