

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

Varshahanadige Sunil Soysa

Accused-Appellant

C.A. Appeal No. 295/2008

H.C. Kurunegala No.213/2005

Vs.

The Hon. Attorney General,
Attorney General's Department,
Colombo 03.

Respondent

Before : **SISIRA DE ABREW, J &**
P.W.D.C. JAYATHILAKA, J

Counsel : A.K. Chandrakanth Assigned for
the Accused-Appellant

Shanil Kularatne S.S.C. for the
State.

Argued &
Decided on : 04.03.2013.

Sisira de Abrew, J.

Heard both counsel in support of their respective cases.

The accused-appellant in this case was convicted of a murder of man named Warsha Handige Upul Soyza who was his own brother and was sentenced to death. Being aggrieved by said conviction and the sentence the accused-appellant has appealed to this court.

Facts of this case may be briefly summarized as follows:

The accused-appellant, his brother (the deceased person in this case), his sister-in-law Anulawathie and his mother Biso Manika were living in one house. On the day of incident around 9.30 p.m. attention of Anulawathie was drawn to a sound that emanated from the verandah of the house. At this time the deceased person was sleeping on the verandah. When she looked in the direction, she saw the accused-appellant carrying an axe in his hand. Anulawathie then ran away from this place to complain the matter to her mother-in-law who was, at that time, in a house in the neighbourhood. When Anulawathie was running, the accused-appellant chased after her. When Biso Manika mother of the accused-appellant and Anulawathie came to the house, the

accused-appellant admitted to his mother that he cut the deceased person. Both Anulawathie and Biso Manika gave evidence at the trial. Learned defence counsel who appeared for the accused-appellant at the trial, in order to attack the credibility of Biso Manika questioned Biso Manika whether she went to the police station in order to see her statement made to the police. Biso Manika answered this question in the affirmative. Learned Counsel ✓ for the accused-appellant therefore contended that Biso Manika cannot be believed. When I consider the evidence, I feel that the said answer given by Biso Manika was insufficient to attack the credibility of Biso Manika. We have gone through the evidence of the case and are of the opinion that of both Anulawathie and Biso Manika have spoken the truth.

The accused-appellant in his dock statement took up an alibi. He stated that, at time of the incident, he had gone to do some election work. But his own mother had given evidence against him and according to his own mother the accused-appellant admitted the fact that he inflicted injuries on the deceased person. When we consider all these matters, we are of the opinion that the dock statement has not created any reasonable doubt in the prosecution case. We have gone through the evidence and the

judgment. We see no reason to interfere with the judgment of the learned trial Judge.

For the above reasons, we affirm the conviction and death sentence and dismiss the appeal.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

P.W.D.C. Jayathilaka, J.

I agree.

JUDGE OF THE COURT OF APPEAL

/mds