

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

CA 217/2011

HC PANADURA CASE NO.2265/2006

Sukith Weerakoon
No: 87/01,
Menerigama,
Hadapangoda.

APPELLENT

Vs.

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

RESPONDENT

CA 217/2011

HC PANADURA CASE NO.2265/2006

Before: Sisira J de Abrew, J. Acting (P/CA)
P.W.D.C. Jayathilake, J.

Counsel: Neranjan Jayasinghe for Accused-Appellant.

Dilan Ratnayake SSC for AG.

Decided On:21.11.2013.

Sisira J de Abrew, J.

Accused-Appellant is present in Court produced by the
Prison Authorities.

Heard both Counsel in support of their respective cases. The
accused-appellant in this case was convicted for committing the
offence of culpable homicide not amounting to murder to a person
named Prageeth Visudda Rajapakshe and was sentenced to a term
of five years rigorous imprisonment, to pay a fine of Rs. 10,000/-
carrying a default sentence of six months simple imprisonment
and to pay a sum of Rs. 200,000/- to one Korale Kankanamge
Somawathie who is the mother of the deceased person carrying a
default sentence one year simple imprisonment. Learned Counsel

appearing for the accused-appellant does not challenge the conviction but submits that the sentence imposed by the learned trial judge is excessive.

Facts of this case may be briefly summarized as follows:

The accused-appellant who was coming from a wedding ceremony on the day of the incident could not start his motor cycle on his way home. One Gayan Sanjeewa, Gamini and Thusara came to his help. At this time the deceased person who was coming on a motor cycle flashing its head light stopped at the place where the accused-appellant had stopped. There was an exchange of words with regard to the flashing of the light. The three people Gayan Sanjeewa, Gamini and Thusara separated both the deceased person and the accused-appellant. In fact the three male persons mentioned above took the deceased person near his motor cycle. The deceased person thereafter came near the accused-appellant and assaulted him. At that time the accused person was seated on his motor cycle. Thereafter the accused-appellant stabbed the deceased person. At the time of the incident the deceased person was 27 years old, ~~man~~. The accused person was only a 19 year old man. When we consider all these matters, we are of the opinion that the sentence imposed by the learned High Court

Judge is highly excessive. We, therefore set-aside the sentence and imposed the following sentence.

We sentence the accused-appellant to a term of three years rigorous imprisonment and to pay a fine of Rs. 10,000/- carrying a default sentence of three months simple imprisonment. Both Counsel admit that the accused-appellant, after the conviction, has not been released on bail. We direct the Prison Authorities to implement the sentence imposed by this Court from the date of sentencing by the learned trial judge (02.12.2011). We direct the learned High Court Judge of Panadura to issue a fresh committal indicating the sentence imposed by this Court. Subject to the above variation of the sentence the appeal of the accused-appellant is dismissed.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL.

P.W.D.C. Jayathilake, J.

I agree.

JUDGE OF THE COURT OF APPEAL.

Mm/-.