

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

H. Karunasekera

Accused-Appellant

Vs.

The Hon. Attorney General,

Respondent

C.A. 110/2012

H.C. Colombo Case No: 3393/2006

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

Counsel : Tenny Fernando for the Accused-Appellant.
A. Jinasena DSG. for the respondent.

Argued &

Decided on : 29.01.2014

Sisira J. de Abrew,J.(Acting P/CA)

Heard both counsel in support of their respective cases. The accused-appellant in this case was convicted of the murder of his own wife Padmini

and was sentenced to death. Being aggrieved by the said conviction and the sentence he has appealed to this Court. Facts of this case may be briefly summarized as follows:

On the day of the incident around between 7.30 and 8.00 a.m. Susilawathie saw the deceased woman with bleeding injuries. Thereafter Susilawathie with the assistance of Dayawathie took the deceased woman Padmini to the hospital in a three wheeler. Whilst travelling in the three wheeler the deceased woman Padmini told Susilawathie that Karuna stabbed her and looked after her children. Karuna is the accused in this case. His name is Karunasekera. Premalatha who was the post mistress in the area, around 8.00 a.m. on the day of the incident, heard some cries and when she looked in that direction she saw the deceased woman Padmini with bleeding injuries. She also saw husband of the deceased woman leaving this place. She immediately telephoned the Police and informed about the incident. Dayawathie who was called by the accused said that the deceased woman did not speak when she was being taken to the hospital. However a contradiction was marked when she gave evidence with regard to the alleged dying declaration. According to Dayawathie's evidence deceased woman did not speak while being taken to the hospital. But in her statement made to the Police Dayawathie had admitted that deceased woman uttered the following words. ' my husband stabbed me' This was marked as a contradiction. In my view, the said contradiction is a material contradiction and the rejection of her evidence by the learned trial Judge is correct. The doctor who conducted the post-mortem says

that the deceased woman was in a position to speak within a period of two hours after receiving injuries . The accused-appellant who gave evidence took up the position that he was at the relevant time at Ahangama. But he being the husband of the deceased woman did not come to see his wife who was in the hospital for 10 days. He says that he did not come because he was threatened. We are unable to accept his explanation. The fact that he did not visit his wife for 10 days who was in the hospital proves that the stand taken up by him is false. Therefore the learned trial Judge was correct in rejecting his evidence.

According to the Post Mortem Report there are three stabbed injuries and an ^{incised} ~~inside~~ wound. She died due to stab injuries to the face.

When we consider the evidence led at the trial, we feel that the prosecution has proved its case beyond reasonable doubt. There are no grounds to interfere with the judgment of the learned trial Judge. For the above reasons, we affirm the conviction and the death sentence and dismiss the appeal.

Appeal dismissed.

Acting President of the Court of Appeal

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

I agree.

Judge of the Court of Appeal

Jmr/-