

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

Vidana Pathiranage Somasiri  
*alias* Godakumbure Loku  
Mahaththaya

**C.A. No:172/2011**

**Accused-Appellant**

**H.C. Embilipitya  
Case No:HCE/291/06**

Republic of Sri Lanka.

**Respondent**

BEFORE : **SISIRA J. DE ABREW, J. (ACTING P/CA) &  
P.W.D.C. JAYATHILAKA, J.**

COUNSEL : Neranjan Jayasinghe for the  
Accused-Appellant.  
  
Madhawa Tennakoon, SSC, for the  
Respondent.

ARGUED AND  
DECIDED ON : 21.02.2014.

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**SISIRA J. DE ABREW, J. (ACTING P/CA)**

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 of the murder of a man named Kodituwakkuge Ariyasinghe 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 summarised as follows:

On the day of the incident around 8.00 in the morning Gunatilake and Kumara who are brothers started cutting branches of a tree which had fallen across the boundary of the two witnesses and the accused-appellant. It has to be noted that the accused-appellant's land was adjoining to the land of the two witnesses (Gunatilake and Kumara). The two witnesses were cutting the tree into pieces. At this time the deceased person too came to this place and sat on the ground. Little later, the accused-appellant came to this place and told the two witnesses not to cut the tree which had fallen. Thereafter, the accused-appellant all of sudden turned towards the deceased saying "did you also come" and stabbed the deceased. He stabbed about nine times. This was witnessed by Gunatilake, Kumara and the wife of the deceased Violet. At the time of the trial Violet had gone abroad and her deposition at the

Magistrate's Court was led in evidence. The accused-appellant in his dock statement stated that when he came to the place where the tree had fallen, one of the witnesses (either Gunatilake or Kumara) armed with an axe came to attack him. Thereafter he ran away from the place. When we consider the evidence led at the trial, we hold the view that the dock statement of the accused-appellant cannot be accepted and is not capable of creating any reasonable doubt in the prosecution case. When we consider the evidence led at the trial, we see no reason to interfere with the judgment of the learned trial Judge. We therefore affirm the conviction and the death sentence and dismiss the appeal.

*Appeal dismissed.*

**ACTING PRESIDENT OF THE COURT OF APPEAL**

**P.W.D.C. JAYATHILAKA, J.**

I agree.

**JUDGE OF THE COURT OF APPEAL**

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