

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

C.A.No.15/2005

H.C.Kalutara No.HC 183/02

Ratiyala Widanalage Chaminda Paragoda
Bulathsinhala.

Appellant

Vs.

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

Respondent

C.A.No.15/2005

H.C.Kalutara No.HC 183/02

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

Counsel : Dr. Rannjit Fernando for the
accused- appellant.
Dappula de Livera DSG for the A.G.

Argued and

Decided on : 05.03.2014

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

Heard both counsel in support of their respective cases.

The accused in this case was convicted of the murder of a man named Anura Samanthilaka 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:-

The deceased was married to the sister of the accused-appellant. On the day of the incident around 8.00 p.m. the

accused- appellant came to the ancestral house of the deceased person armed with a Kathi and a knife and uttered the following word " Work was done. I killed the brother" these utterances were made to Upul Samanthilaka who is the brother of the deceased person. Before he said the above words, he kept the said two weapons at the door step of the house. Indrajith Smanthilaka^{who} was also present in this house says that the accused-person came and uttered the following words " work was done. I killed Anura". Witnesses made a prompt complaint to the police. Around 1.00 a.m. on the following day police arrived at the scene. According to the observation of the investigating officer the deceased person was lying fallen in a bed in a room of the deceased person's house. The blood had dripped from the body of the deceased and there were several injuries on the body of the deceased. The investigating officer does not say that he saw blood anywhere else other than near the said bed. This suggests that the attack on the deceased person had taken place while he was lying in the bed. According to the doctor, there were 15 cut injuries on the body of the deceased. The accused in his dock statement admitted that he went to the house of the deceased on this day. He thereafter went to the ancestral house

of the deceased person and told the inmates of the house that the deceased was lying in a bed in the house of the deceased person. He further says in his dock statement that the deceased person used to assault his wife who is the sister of the accused-person. This was the summary of the dock statement.

Learned Counsel appearing for the accused-appellant tried to contend that this incident taken place as a result of cumulative provocation but we are unable to accept the said contention due to following reasons. According to the investigating officer the deceased person was lying in a bed in his house with bleeding injuries. There is no evidence to suggest that there were blood stains at any other place in the house other than near the bed. It suggests that this incident has taken place while the deceased person was lying in the bed. It may be the accused-person having a ruffled mind due to the quarrel between the deceased person and his wife. But for him to claim cumulative provocation or grave and sudden provocation there must be evidence that the deceased person did something to provoke the accused person. I have earlier pointed out that the incident had taken place whilst the deceased person was lying in

the bed. Then how can one argue that the deceased person did something to provoke the accused-appellant?.

When we consider the above facts, we are unable to arrive at the conclusion that the accused person has acted under grave and sudden provocation or under cumulative provocation from the evidence led at the trial the one and only irresistible and inescapable decision that can be arrived is that the accused person committed the murder of the deceased person. When we consider the evidence led at the trial, we refuse to interfere with the judgment of the learned Trial Judge. For the above reasons we affirm the conviction and the death sentence. We dismiss the appeal

Appeal dismissed.

PRESIDENT OF THE COURT OF APPEAL

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

I agree.

WC/-

JUDGE OF THE COURT OF APPEAL-