

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

Molligoda Liyanaarachchilage
Sarathchandra,
418/05. Lelgahawatta,
Kelaniya.

CA No. 15/2011

Accused-Appellant

- Vs -

HC Puttalam Case No. 31/07

The Attorney General

Respondent

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

COUNSEL : W.D. Dharmasiri Karunaratne for the Accused-
Appellant.
Sarath Jayamanne DSG for the AG.

DECIDED ON : 11.03.2014

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

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

Heard both counsel in support of their respective cases.

Accused-appellant in this case was convicted of the murder of his own wife Catherin 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;

The accused-appellant, his wife and children were chased out of the estate that they were living few days prior to the incident in this case. Thereafter, some people in the area helped the family and found a small house in another estate. When they were living in the said small house some drug addicts in the area came to the said estate in which the small house was found. They did this as a habit. The accused-appellant suspected that his wife was having an affair with the said drug addicts. One day he started assaulting her with a walking stick. The daughter, Piyona saw the incident. According to the daughter, her father (accused-appellant) got angry when he questioned about the alleged affair. It appears that he had been informed by people in the neighborhood that his wife was carrying on with somebody who came to this land to consume drugs. Daughter admitted that when the father assaulted her mother he was angry over the alleged affair between the mother and some outsider. When we consider the said evidence, we feel that the accused-appellant should have been convicted of the offence of culpable homicide not amounting to murder on the basis of grave and sudden provocation, which is an offence punishable under Section 297 of the Penal Code. We therefore set aside the conviction of murder and the death sentence and enter conviction of the offence of culpable homicide not amounting to murder on the basis of grave and sudden provocation which is an offence punishable under Section 297 of the Penal Code. We sentence him to a term of 18 years rigorous imprisonment and to pay a fine of Rs. 2500/= carrying a default sentence of 03 months simple imprisonment. We direct the Prison Authorities to implement the sentence from the date of

sentencing by the learned trial Judge. Subject to the above variation of verdict and the sentence the appeal of the appellant is dismissed.

Appeal dismissed.

PRESIDENT OF THE COURT OF APPEAL

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

I agree.

JUDGE OF THE COURT OF APPEAL

KRL/-