

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

Dunusinghe Devage Keerthiratne

ACCUSED-APPELLANT

C.A. 251/2010
H.C. Embilipitiya 35/2008

Vs.

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

RESPONDENT

BEFORE: Anil Gooneratne J. &
Malinie Gunaratne J.

COUNSEL: A.K. Chandrakantha assigned counsel for the Accused-Appellant
Shanil Kularatne S.S.C. for the Respondent

ARGUED ON: 27.05.2014

DECIDED ON: 10.06.2014

GOONERATNE J.

Accused-Appellant was indicted on 2 counts. The first count was based on the murder of one Karunawathie and the second count was for voluntarily causing hurt by dangerous weapon to one Nissanka Wijeratne. The Accused-Appellant was convicted and sentenced to death. The case of the prosecution was that the deceased was the Accused mother-in-law. It is the case of the prosecution that the Accused was married to one Ranmenika and due to certain dissension between the Accused and his wife Renuka, the wife left the house a few days prior to the incident and stayed with his mother and sisters and others in the main house. The eye witnesses testify that on the day of the incident Accused had come to the main house in the morning. The deceased mother was washing her face in the garden at about 6.30 a.m. Accused had hit his brother-in-law with a katty and caused injuries to him and thereafter attacked the mother-in-law with a katty till she fell on the ground with severe injuries, and died subsequently.

The learned counsel for the Appellant did not contest the above incident or made any attempt to seriously canvass the conviction. It was the

learned counsel's only position that the Accused-Appellant was at a certain stage suffering from a mental illness. He drew the attention of this court to pg. 119 of the brief and referred to the submissions of the State Counsel on the question of mental illness of the Accused. It is recorded therein that at a certain stage a report had been called for as regards the Accused mental condition. Then on 25.8.1977 a report had been received in the Magistrate's Court by Dr. Harischandra that the Accused is not in a position to plead. Based on the above material State Counsel moved the High Court to call for a report on the Accused mental condition. That application was allowed by the learned High Court Judge.

However the learned Senior State Counsel who appears for the Respondent submitted to court that, though a report was called the record does not indicate any follow up action and the trial proceeded to the very end and the Accused-Appellant was convicted and sentenced.

This court observes that in the absence of a proper acceptable report being produced in the High Court or a plea of insanity which must suffer from alienation of reason sufficient to so mislead his judgment that either.

- (a) He does not know the nature or quality of the act he is doing, or
- (b) He does not know that, what he is doing is wrong.

At least (a) & (b) above need to be proved to the satisfaction of court. We cannot find any such material to prove insanity.

We are inclined to accept the submissions of learned Senior State Counsel. The prosecution has proved its case beyond reasonable doubt. There is no basis to intervene and interfere with the Judgment of the learned High Court Judge. As such we affirm the conviction and sentence of the learned High court Judge, and dismiss this appeal.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

W.M.M. Malinie Gunaratne J.

I agree.

JUDGE OF THE COURT OF APPEAL