

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

**C.A No: 102/2009**

H.C.Trincomalee Case No: HCEP 2205/04

A.M. Aunar  
No: 1042,  
Anuradhapura Junction,  
Trincomalee.

**Appellant**

**Vs.**

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

**Respondent**

**C.A No: 102/2009**

**H.C.Trincomalee Case No: HCEP 2205/04**

**Before** : Vijith K. Malalgoda PC J (P/CA) &  
H.C.J. Madawala, J.

**Counsel** : Indika Mallawarachchi for the Accused-Appellant.  
Sarath Jayamanna, A.S.G for the Respondent.

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

**Argued &  
Decided on :** 11.08.2015.

**Vijith K. Malalgoda PC J (P/CA)**

The learned counsel for the Accused-Appellant submits that she is not be supporting the conviction and the sentence but only be making a submission for backdating of the sentence. In the present case the accused-appellant was indicted before the High Court of Trincomalee for the murder of his wife. According to the facts of this case the husband and the wife were quarrelling over some money given by the wife to the husband to buy some cement to construct their house in the whole day. They had been fighting even when they were having dinner and thereafter the accused said to have set fire to the wife inside the kitchen. The daughter of the deceased had heard cries of her mother saying that the husband had set fire to her. The deceased in fact had made a dying deposition as well.

The learned trial Judge after considering the material placed before him had come to conclusion that the accused is not guilty for murder but convicted him for culpable homicide not amounting to murder on the basis of grave and sudden provocation and imposed a sentence of 12 years Rigorous Imprisonment and fine of Rs.10,000/- with the default terms of one year Rigorous Imprisonment. The counsel submits that she has instructions received from the accused-appellant to withdraw the said appeal. However, she makes an application under section 359 of the Criminal Procedure Code to implement the sentence from the date of conviction i.e from 27.07.2009.

The learned Additional Solicitor General has no objection for the said application. We therefore make order dismissing the appeal and with regard to operation of the sentence, we make order to implement the said sentence with effect from the date of conviction i.e from 27.07.2009. Subject to the above variation the appeal stands dismissed.

**PRESIDENT OF COURT OF APPEAL**

**H.C.J. Madawala, J**

I agree

**JUDGE OF THE COURT OF APPEAL.**

Vkg/-