

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

CA 216/2014
HC Gampaha 80/09

M.S. Guneratne
Nittabuwa

Appellant

Vs.

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

Respondent

BEFORE : H.N.J. Perera, J. &
K.K. Wickramasinghe, J.

COUNSEL : Manoja Gunawardena for the accused-appellant.
Shavindra Fernando PC, ASG for the AG.

DECIDED ON : 06.10.2015

H.N.J. PERERA, J.

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

Counsel for the accused-appellant submits to Court that he would confine this appeal only to the sentence imposed by the learned High Court Judge on the accused-appellant and submits that the deceased is the father of the accused-appellant. He has been convicted for committing an offence punishable under Section 297 of the Penal Code. The learned trial Judge has come to the conclusion that there had been a sudden fight and as a result of that, the deceased has succumbed to the injuries. Counsel submits that the accused-appellant was 40 years of age at the time of the incident and has one child and that he has no previous convictions and that the accused-appellant never intended to do any harm to his father, but unfortunately this incident had taken place. Counsel further submits that the accused-appellant was in remand pending trial of this case before the High Court as he was unable to furnish the bail that had been ordered by the Magistrate. In taking into consideration the facts and circumstances of this case Counsel for the accused-appellant moves to impose a lenient sentence on the accused-appellant and also to back date the said sentence from

the date of conviction under Section 359 of the Criminal Procedure Code. Learned counsel for the respondent leaves the sentence in the hands of Court.

After considering the facts and circumstances of this case and the age of the accused-appellant and taking into consideration the fact that the accused-appellant was in remand pending trial in this case and also the submissions made by the Counsel, we substitute a term of ten years rigorous imprisonment on the accused-appellant. We also direct that the sentence be implemented from the date of conviction namely, 10.11.2014. Subject to the said variation of the sentence, we dismiss the appeal.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

K.K. WICKRAMASINGHE, J.

I agree.

JUDGE OF THE COURT OF APPEAL.

KRL/-