

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

In the matter of an appeal made in terms
of Section 331 of the Code of Criminal
Procedure Code Act No: 15 of 1979.

The Democratic Socialist Republic of
Sri Lanka.

Case No: CA 34/2015

HC Kalutara

Case No: 367/2011

Vs

B M Ruwan Thilina Kumara

Accused

And now between

B M Ruwan Thilina Kumara

Accused Appellant

Vs.

Hon. Attorney General,
Attorney General Department

Respondent

Before : P R Walgama, J &
K.K. Wickremasinghe, J.

Counsel : Ranjit Fernando A.A.L. for the Accused-Appellant.
S.S.C. Navavi for the Attorney-General.

Argued on : 4th November 2016

Written Submissions of the Appellant filed on: 01st of July 2016

Judgment on: 14th February 2017

K.K. WICKREMASINGHE, J.

The accused-appellant BM Ruwan Thilina Kumara(hereinafter referred to as the appellant) was indicted in the High court of Kaluthara for committing Attempted Murder on or about 12th February 2008 by attacking one Indradase, Which is punishable under sec 300 of the Penal Code.

The accused appellant was tried without a jury before the Learned High Court Judge. At the conclusion of the trial on the 17th March 2015 he was convicted by the learned High Court Judge and accordingly sentenced to serve 16 years Rigorous imprisonment also he was ordered to pay Rs.500,000 as compensation with a default sentence of 2 years and a fine of Rs.50,000 with a default sentence of 6 months.

Facts of the case are as follows:-

On the day in question the injured was returning after dropping his child at school on his motor bicycle. At that point of time the Accused Appellant was riding his push cycle. According to the evidence of the injured, when he was passing the Accused Appellant, the Appellant had said something to the injured in obscene language. Then the injured had stopped his motor bicycle and taken off his helmet. At that point the appellant had hit the injured on his

head with a club. Then the injured had fallen and there after admitted to the hospital and discharged 10 days later.

The appellant while admitting the prosecution version submits that the injured tried to intentionally collide with him and at that time the Appellant hit him with a club. The counsel for the Accused Appellant submitted to court that he used a wooden stick of a fence to hit the injured only once. The Appellant had given a reason for the altercation as over a cash transaction.

The counsel for the Appellant submitted that at present the injured is working as a mechanic.

The appellant has been incaserated since the date of conviction, on the 17th March 2015.

Considering the submissions made by both counsel we affirm the conviction and reduce the sentence to 12 years Rigorous Imprisonment and also direct that the sentence be implemented from the date of conviction namely from 17th March 2015.

Subject to the above mentioned variation of the sentence, the Appeal is hereby dismissed.

JUDGE OF THE COURT OF APPEAL

P.R. WALGAMA J.

I agree.

JUDGE OF THE COURT OF APPEAL