

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

Court of Appeal Case No : CA 121/2011

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

Complainant

Vs.

Dissanayaka Mudiyanseelage Heen Banda

Accused

AND
NOW BETWEEN

Dissanayaka Mudiyanseelage Heen Banda

Accused-Appellant

Vs.

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

Complainant- Respondent

C.A 121/2011.

High Court of Badulla 258/2003.

Before : Deepali Wijesundera, J &
L.U. Jayasuriya, J.

Counsel : Tenny Fernando for the Accused-Appellant.
Shanaka Wijesinghe D.S.G. for the Respondent.

Argued &

Decided on : 02.10.2017.

L.U.Jayasuriya, J.

The Accused-Appellant was indicted in the High Court of Badulla for the murder of a woman named Rathnayake Mudiyanseelage Vijaya Kumari. After trial the learned High Court Judge convicted the Accused –Appellant and imposed death sentence. The 2nd Accused –Appellant was acquitted on the charges leveled against him. Prosecution witness No: 05 Jayathilaka he has narrated the incident before the High Court and has explained as to how the incident took place but the learned High Court Judge has disregarded his evidence on the basis that he was an accomplice and that he was a suspect in the Magistrate Court. We find that there is overwhelming evidence against the Accused –Appellant and such evidence has not been considered by the learned High Court Judge. Therefore we

decide to set aside the judgment dated 13.12.2011 and order a re-trial. Registrar is directed to send back the original record to the High Court of Badulla.

JUDGE OF THE COURT OF APPEAL.

Deepali Wijesundera, J.

I agree.

JUDGE OF THE COURT OF APPEAL.

Vkg/-