

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

In the matter of an Appeal made under  
Section 331 of the Code of Criminal  
Procedure Act No. 15 of 1979.

The Democratic Socialist Republic of  
Sri Lanka.

**COMPLAINANT**

**Vs**

Mohamed Ali Nazeer

**ACCUSED**

**Case No. CA 263/2008**

**HC (Trincomalee) Case No. 241/07**

**AND NOW BETWEEN**

Mohamed Ali Nazeer

**ACCUSED – APPELLANT**

**Vs**

The Hon. Attorney General

Attorney General's Department

Colombo 12.

**COMPLAINANT – RESPONDENT**

**BEFORE**

: Deepali Wijesundera J.

: L.U. Jayasuriya J.

**COUNSEL**

: Amila Palliyage for the

Accused – Appellant

Wasantha Navaratne Bandara

A.S.G. for the Attorney General

**ARGUED ON**

: 02<sup>nd</sup> February, 2018

**DECIDED ON**

: 09<sup>th</sup> February, 2018

**Deepali Wijesundera J.**

The appellant was charged under section 296 of the Penal Code for the murder of one Laffir Sumaitha Banu on 20/05/2006. After trial he was convicted for the said offence and sentenced to death.

The deceased who was a nine years old girl was found missing in the morning on 20/05/2006. After 6 days her body was found buried in the compound of the appellant. It appears from the evidence that the appellant had been working in the bakery belonging to prosecution witness number one, father of the deceased. His services were terminated by the father. He has met the appellant on 12/05/2006, he has inquired from prosecution witness number one whether he had memories of any unforgettable incidents in his life. And when prosecution witness number one answered in the negative the appellant is alleged to have asked if someone kidnapped his child will that be an unforgettable incident? Thereafter the prosecution witness number one has told the appellant that no one will dare not enter his house as there is a dog in his house.

statutory statement was not read in evidence no prejudice will be caused. Further this is a curable defect under sec. 334 of the Code of Criminal Procedure Act, and Article 138 of the Constitution.

For the afore stated reasons we see no merit in the argument advanced by the appellant. In the result the appeal stand dismissed. The conviction and sentence dated 10/10/2008 is affirmed.

**JUDGE OF THE COURT OF APPEAL**

**L.U. Jayasuriya J.**

I agree.

**JUDGE OF THE COURT OF APPEAL**