

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

Website Copy

1. Punchihewage Sirilal
8. Hettiarachchige Sunil

ACCUSED-APPELLANTS

High Court of Galle
Case No. HC 3357/2009

C.A.-No. HCC 240-241/2018

Vs.

Website Copy

Hon. Attorney general

COMPLAINANT RESPONDENT

Before : **Hon. Justice K.K. Wickremasinghe**
Hon. Justice K. Priyantha Fernando

Accused-Appellants are present in Court
produced by the Prison Authorities.

Counsel : Palitha Fernando, P.C. for the 1st Accused-
Appellant.
Neranjana Jayasinghe for the 2nd Accused-
Appellant.
Chethiya Goonesekara, DSG for Hon. A.G.

Argued and
Decided on : 12. 12. 2019

Hon. Justice K.K. Wickremasinghe

Learned President's Counsel appearing for the 1st Accused-Appellant and learned Counsel appearing for the 2nd Accused-Appellant move to withdraw the appeal against the conviction for murder and wishes to make submissions with regard to the conviction for a lesser culpability.

Learned Deputy Solicitor General submits that considering the facts of the case, learned Deputy Solicitor General concedes to the fact that there was a sudden fight between two parties and as a result of that, the deceased received injuries and he succumbed to the above mentioned injuries.

The daughter of the 1st Accused had attended her age and there was a party to celebrate the above mentioned occasion to the villagers. Accordingly, the deceased also had come and he was offered liquor along with others. The deceased had asked for more liquor and thereafter there was a quarrel taken place inside the house and thereafter the Accused party and the deceased had come out of the house. Originally at the stage of the trial, there were 09 Accused involved in the fight and according to the evidence, they have inflicted injuries to the deceased along with the 1st and the 8th Accused. (1st and 2nd Accused-Appellants)

However, the learned High Court Judge has convicted the 1st and 8th Accused (1st and 2nd Accused-Appellants) for murder.

According to PW 3 there were 10-12 people involved in the attack of the deceased with weapons. Therefore, considering the facts, it is apparent that there was a sudden fight and as a result, the deceased sustained injuries which caused the death of the deceased.

Accordingly, conviction for murder against the 1st and 2nd Appellants is set aside.

The 1st and the 2nd Appellants are convicted for culpable homicide not amounting to murder under the ground of sudden fight. This Court imposes following sentences on each Appellant, the sentence of 06 years Rigorous Imprisonment and a fine of five thousand Rupees each, if defaults 06 months Simple Imprisonment, and the term of imprisonment to run from the date of the conviction and the sentence namely, 09/07/2018.

Learned High Court Judge is directed to issue afresh committal indicating the sentence imposed by this Court.

Registrar is directed to send copies of this order to the learned High Court Judge and to the Prison Authorities.

Registrar is directed to issue copies of this order to the parties on payment as request.

Website *CPW* Copy
JUDGE OF THE COURT OF APPEAL

Hon. Justice K. Priyantha Fernando

I agree.

Website *h* Copy
JUDGE OF THE COURT OF APPEAL

Tns/-