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

In the matter of an Appeal made under Section 331(1) of the Code of Criminal Procedure Act No.15 of 1979, read with Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

**Court of Appeal No:
CA/HCC/ 0075/2020**

Ranatunga Arachchilage
Chandana Prasad Ranatunga

**High Court of Colombo
Case No. HC/5486/2011**

APPELLANT

vs.

The Hon. Attorney General
Attorney General's Department
Colombo-12

RESPONDENT

BEFORE : **Sampath B. Abayakoon, J.**
P. Kumararatnam, J.

COUNSEL : **Anil Silva, PC for the Appellant.**
Azard Navavi, DSG for the Respondent.

ARGUED ON : **08/12/2022**

DECIDED ON : **10 /02/2023**

JUDGMENT

P. Kumararatnam, J.

The above-named Accused-Appellant (hereinafter referred to as the Appellant) was indicted by the Attorney General in the High Court of Colombo for committing the murder of Mohotti Mudiyanseelage Ukku Bandage Laxman on 27/06/2006.

As the Appellant opted for a non-jury trial, the trial commenced before a Judge and the prosecution had led nine witnesses and marked production P1-06 and closed the case. The Learned High Court Judge having satisfied that evidence presented by the prosecution warranted a case to answer, called for defence and explained the rights of the accused. The Appellant made a dock statement and called a witness on behalf of him.

After considering the evidence presented by both the prosecution and the defence, the Learned High Court Judge had convicted the Appellant as charged and imposed death sentence on 26/06/2020.

Being aggrieved by the aforesaid conviction and the sentence the Appellant preferred this appeal to this court.

The Learned Counsel for the Appellant informed this court that the Appellant had given consent to argue this matter in his absence due to the Covid 19 pandemic. At the hearing the Appellant was connected via Zoom platform from prison.

The following Grounds of Appeal were raised on behalf of the Appellant.

1. Has the prosecution proved the case beyond reasonable doubts.
2. Has the defence case been properly analysed by the Learned High Court Judge.

The background of the case *albeit* briefly is as follows:

According to PW1, father of the deceased he had identified the deceased's body at the inquest. Further a police complaint was found in the wallet of the deceased. When he inquired from the Dehiwala Police about the nature of the complaint, he had come to know that the deceased had lodged a complaint against the Appellant regarding a money dispute on the date of the incident.

Although PW2 had given evidence, the Learned trial Judge had rejected his evidence as he had given inconsistent evidence in the court.

PW3 is a police officer who was attached to Dehiwala Police Station during the period relevant to this case. On the date of the incident while he was on traffic duty along the Galle Road close to Waidya Road, had received an information that a person was coming towards Waidya Road after stabbing a person. Acting on that information the witness had crossed the road to apprehended the Appellant who was in possession with a broken knife. Blood had been noted on Appellant's legs, hands, dress and on the broken knife. This witness had taken the Appellant into his custody and transported him in a three-wheeler to the Dehiwala Police Station. On the way at the Dehiwala junction, another police officer also got into the three-wheeler. As PW7, CI/Liyanagama, Officer-in-Charge of Crime Division of the Dehiwala Police Station, was on his way to the place of incident, PW3 had stopped the jeep and handed over the Appellant to PW7 before he

could reach the police station. PW7 had conducted the investigation into this crime.

PW6, Dr.Rajaguru had held the post mortem of the deceased on 28/06/2006. Thirteen cut injuries were seen on the deceased's body. According to PW6, the death has occurred due to haemorrhage shock following a deep cut injury to the neck with a sharp cutting weapon.

The Appellant in his dock statement stated when he was at Dehiwala junction after work, noticed two persons were fighting. As the people shouted to save the two, he intervened and separated the two but one was lying on the ground. When he moved away from the place of incident after directing the people to take the injured to hospital, he was caught by a police officer and taken to the police station. When he appeared before the High Court, he had come to know that a complaint was lodged against him regarding a money transaction by the deceased.

As the two grounds advanced by the Learned President's Counsel are interconnected, both counts will be considered together in this appeal.

The essence of criminal law has been said to lie in the maxim- "*actus non facit reum nisi mens sit rea*". The essence of an offence is the wrongful intent, without which it cannot exist.

The Learned High Court Judge in his judgment at page 317 of the brief very extensively analysed the evidence of PW3 who was the police officer apprehended the Appellant after leaving the place of incident with blood stains and with a broken knife. Acting on the information received, PW3 had quickly crossed the road and caught the Appellant and transported him to the police station. His evidence was not contradicted on material points. Further he is not an interested witness. Although he had failed to mention about blood stains on the Appellant's clothes in his affidavit submitted during the non-summary inquiry, but maintained his original

stance at the High Court trial. His evidence is mostly unchallenged and accepted by the Appellant.

According to PW7, the Appellant was handed over to him by PW3 and PW4 when he was on his way to the place of incident. He had observed blood on Appellant's dress and the broken knife. This witness had recovered the handle of the knife at the place of incident. The Appellant's arrest and handing over to PW7 is unchallenged and undisputed.

The Learned High Court Judge had analysed this evidence in its correct perspective and admitted as true evidence.

According to the medical evidence 13 injuries had been noted on the deceased's body. According to the doctor all injuries could have been inflicted with the knife which had been recovered from the Appellant at the time of his arrest. The knife was marked as P 2(a) at the trial. According to the doctor the death has caused due to haemorrhagic shock following a deep cut injury to the neck with a sharp cutting weapon.

On the date of incident, the deceased had lodged a complaint against the Appellant regarding a money dispute in the Dehiwala Police Station. PW13 had recorded the complaint lodged by the deceased against the Appellant. According to PW1 a complaint receipt was found in the wallet of the deceased.

With all the evidence presented by the prosecution and the defence, it appears that the Learned High Court Judge had appropriately evaluated the evidence in delivering his verdict. The Learned High Court Judge had considered the dock statement of the Appellant in the judgment.

In this case the evidence given by the prosecution witnesses are not tainted with uncertainty or ambiguity and it certainly passes the probability test. As such, the Appellant is not successful in his Appeal grounds.

Therefore, I conclude that the prosecution had succeeded in adducing highly incriminating evidence against the Appellant and thereby established the charge beyond reasonable doubt.

As such, I conclude, that this is not an appropriate case in which to interfere with the findings of the Learned High Court Judge of Colombo dated 26/06/2020. Hence, I dismiss the Appeal.

The Registrar of this Court is directed to send a copy of this judgment to the High Court of Colombo along with the original case record.

JUDGE OF THE COURT OF APPEAL

SAMPATH B. ABAYAKOON, J.

I agree.

JUDGE OF THE COURT OF APPEAL