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.

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

COMPLAINANAT

Court of Appeal No:
CA/HCC/0102-103/2015
High Court of Polonnaruwa
Case No: HC/246/2006

1. Gangodagedara Senaviratne
2. Gangodagedera Laxman Karunaratne
3. Gaspe Ralalage Hemantha Dissanayake

ACCUSED

AND NOW

1.Gangodagedera Laxman Karunaratne

2.Gaspe Ralalage Hemantha Dissanayake

ACCUSED-APPELLANTS

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

COMPLAINANT-RESPONDENT

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

COUNSEL : **Palitha Fernando, P.C. for the 1st Accused-Appellant.**
Neranjan Jayasinghe for the 2nd Accused-Appellant.
Azard Navavi, DSG for the Respondent.

ARGUED ON : **05/12/2022**

DECIDED ON : **06/02/2023**

****

JUDGMENT

P. Kumararatnam, J.

The above-named Accused-Appellants (hereinafter referred to as the Appellants) along with 1st accused were indicted jointly in the High Court of Polonnaruwa under Section 296 of the Penal Code for committing double murder of Mullegama Randilisi Mudiyanselage Ciciliya and Keliyegedera Jayathilaka on or about 25th July 1993. As the 1st accused passed away during the pendency of the trial, the indictment was amended accordingly.

The trial commenced before the High Court Judge of Polonnaruwa as the Appellants had opted for a non-jury trial. After the conclusion of the prosecution case, the learned High Court Judge had called for the defence and the Appellants had given evidence from the witness box and subjected to lengthy cross examination by the prosecution. After considering the evidence presented by both parties, the learned High Court Judge had convicted the Appellants as charged and sentenced them to death on 04/06/2015.

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

The Learned Counsel for the Appellants informed this court that the Appellants have given consent to argue this matter in their absence due to the Covid 19 pandemic. Also, at the time of argument the Appellants were connected via Zoom platform from prison.

Background of the Case.

The prosecution case is rest on testimony of an eye witness and circumstantial evidence.

PW1 Seelawathie is the eye witness in this case. The incident had happened in the house of 1st deceased Cicilia who is the aunt of this witness. The 2nd deceased Jayathilaka is the son of 1st deceased and the cousin of this witness. The 1st accused and the 1st Appellant in this case were the brothers-in-law of 2nd deceased Jayathilake who had married to their elder sister. At the time of the incident, they were estranged as their marriage had broken off. The witness had moved to this house as most of the time the 2nd deceased was away from home leaving the 1st deceased alone.

On the date of the incident after dinner while they were watching T.V. around 9.00 p.m. the 2nd deceased went into his room to sleep and the 1st deceased carrying a plastic cup had gone towards the front of the house to brush her teeth. Within 2-3 minutes after 1st deceased went out, the witness had heard her screaming thrice. (අංජේ අජේංපෝ අංජේ අජේංපෝ අංජේ අජේංපෝ) Hearing the scream when she ran towards the front door had seen 2nd deceased also coming out of his room and three persons had surrounded him at the entrance of the room. She had identified the intruders as the 1st accused (now deceased),1st Appellant and 2nd Appellant from the light emanating from the lights which were on in the hall, the portico and the T.V. The 1st accused and the 1st Appellants were known person to PW1 and the 2nd Appellant was identified at the identification parade by PW1. She had seen 1st accused and the 1st Appellant holding 2nd deceased and 1st Appellant cutting him with a sword.

Due to fear PW1 had escaped the house from rear door and cried for help running towards PW3 Kusumawathie's house. She had only come to the house after the arrival of the police. At that time, she had seen the 1st

deceased fallen down face downwards close to the main door. As the 2nd deceased had been taken to hospital, she had only noticed blood and two severed fingers said to be that of the 2nd deceased lying fallen close to the room.

As the wife of 2nd deceased and the sister of 1st accused and 1st Appellant had left house of 2nd deceased, both parties were not in good terms during this period. On two occasions the 1st accused and 2nd Appellant had threatened the 1st deceased and PW1.As such the 1st deceased had lodged a complaint at the Polonnaruwa Police Station.

PW2 Anula Jayanthi is a relation to the deceased party. She lived closed to the 1st deceased's house. On the day of the incident, hearing the screaming of 1st deceased (අපේ අප්පෝ අපේ අප්පෝ) when she came out of her house and remained there for about 10 minutes, the 1st Appellant who had been known to her from her school days come up to the fence and threatened her not come forward to give evidence. (අපේ අප්පෝ අපේ අප්පෝ කියලා කෑ ගැහුවා. ඒත් එක්කම විනාඩි 10කට පස්සේ වැට ලඟට ඇවිල්ලා පලවෙනි විත්තිකරු කිව්වා සහෝදරකමට, ඥාතිකමට සාක්ෂි දීලා තිබුනොත් නොපිත් මරනවා කිව්වා. ඊට පස්සේ අපි දැන ගත්තා මෙතන මොනවා හරි වෙනවා කියලා.) She identified him by his voice. She also confirmed the existence of animosity due to the breakdown of 2nd deceased's marriage.

PW3, Kusumawathie had corroborated the evidence given by PW2, but she had failed to identify the person who had threatened them not to give evidence.

PW19, the main investigating officer IP/Prasanna who visited the scene of crime had noted a plastic cup fallen near the 1st deceased's body. Further he had noted blood and severed part of human fingers near the door of the 2nd deceased's room.

PW16, PC/19000 Weerasinghe had arrested the 1st Appellant and the 1st accused when they surrendered to police on 26.07.1993 with a sword and an iron rod.

The doctor who held the post mortem of the deceased Ciciliya had noted 08 cut injuries on her head and back of the shoulder. According to him the

cause of death is due to severe brain damage due to cut injuries on the head.

The AJMO who held the post mortem of Jayathilaka had noted 16 cut injuries on the head, left upper limb and right upper limb. According to him the cause of death is due to Cranio Cerebral injuries caused by sharp cutting weapon.

The Appellants had separately canvassed their Appeal grounds through their counsel.

The First Appellant had filed the following grounds of appeal.

1. The infirmities in the evidence of the main eye witness have not been given due consideration.
2. The Learned High Court Judge did not observe any of the eye witnesses give evidence.
3. The suspicious nature of the evidence of garments of the accused taken as productions should have been carefully analyzed by the trial judge.
4. The alibi taken by the accused have not been adequately considered by the Learned Trial Judge.

The Second Appellant had filed the following grounds of appeal.

1. Identification of the 2nd Appellant at the scene of crime is doubtful.
2. The evidence of 2nd Appellant who gave evidence under oaths had not been evaluated and no reason given for its rejection.
3. Contradiction V1 which goes to the root of the case was not considered by Learned High Court Judge.

The Learned President's Counsel for 1st Appellant had contended under 1st ground of appeal that the infirmities in the evidence of the main eye witness have not been given due consideration.

The Learned President's Counsel strenuously argued that the Learned Trial Judge had failed to consider all the circumstances whether PW1, Seelawathie had witnessed the incident as claimed by her in her testimony.

As stated above, PW1 Seelawathie who is an eye witness had vividly explained how this gruesome incident had happened. She had clearly seen the attack on the 2nd deceased Jayatilaka before she could escape from the house.

The Learned High Court Judge in his judgment had considered the evidence given by PW1 extensively and properly analyzed her evidence in its correct perspective. Further learned High Court Judge had reasonably considered all evidence direct and circumstantial to come to his decision.

Further, the eye witness PW1 had given evidence in the High Court nearly 17 years after the incident. I consider her evidence is clear and cogent and not shaken her credibility or testimonial trustworthiness.

Although motive is not necessary to prove in a criminal trial, existence of a motive would strengthen the prosecution case. In this case the evidence revealed that an enmity existed between parties due to the sister of 1st accused and 1st Appellant who married to the 2nd deceased Jayathilaka had left her matrimonial house due to a family dispute with her husband the 2nd deceased. This had led to the 1st accused and 1st Appellant threatening 1st deceased Cicilia with regard to their sister's issue of leaving the matrimonial house.

As the Learned High Court had Judge had considered all these evidence in his judgment, it is incorrect to say that the Learned High Court Judge had failed to give due consideration to the evidence of PW1, Seelawathie. Hence, I conclude this ground has no merit.

Under 2nd ground of appeal of 1st Appellant, the Learned President's Counsel contended that the Learned High Court Judge did not observe any of the eye witnesses give evidence in the court.

In a criminal trial it is not always possible to a trial judge to observe all the witnesses who had testified before a court. This is due to various factors including the transfers and retirement of judicial officers.

In this case the learned High Court Judge even though he had not had the benefit to observe the demeanor and the deportment of the witness who gave evidence during the trial, had properly evaluated the evidence given by both sides to arrive at a correct finding. Considering the entirety of the judgment, it is incorrect to say that the learned High Court Judge had totally disregarded Section 283 of the Code of Criminal Procedure Act No.15 of 1979. Hence, this ground too has no merit for consideration.

In the 3rd ground of appeal of the 1st Appellant, the Learned President's Counsel argued that the suspicious nature of the evidence of garments of the accused taken as productions should have been carefully analyzed by the trial judge.

According to PW16, PC Weerasinghe, he had arrested the 1st accused and the 1st Appellant when they surrendered to police on 26/07/1993 with a sword and an iron rod. Further he had taken into custody the blood-stained clothes from them.

The Learned President's Counsel argued that as PW16 got into difficulty when he was questioned by court on this matter during course of his examination-in-chief, his evidence should have been carefully analyzed by the trial judge due to the reason that the 1st Appellant vehemently denied that they handed over any weapon to the police upon their surrender. Hence, Learned President's Counsel further argued that said evidence given by PW16 regarding productions was a fabrication against them.

The Learned High Court Judge in his Judgment had considered the evidence of PW16 extensively. The relevant portion is re-produced below:

(Pages 807-808 of the brief.)

පැමිණිල්ල වෙනුවෙන් විශ්‍රාමික පොලිස් පරීක්ෂක ආර්. එම්. ඒ. රාජපක්ෂ අනතුරුව අධිකරණයේ සාක්ෂි දී ඇත. ඔහුගේ සාක්ෂියට අනුව 1993 වර්ෂයේ පොළොන්නරුව පොලිසියට අනුයුක්තව අපරාධ අංශයේ ස්ථානාධිපති ලෙස රාජකාරී කළ බවත් 1993.07.25 වන දින ලද දුරකථන පණිවිඩයක් අනුව අපරාධ ස්ථානය නැරඹීමට ගිය බවත් පී. පී. සෙනෙවිරත්න 01 වන සැකකරු බවත් එම සැකකරුගේ මඟපෙන්වීම යටතේ කළුපාට දිග කලිසමක් හා කළුපාට කොලරයක් ඇති රතුපාට ටී ෂර්ට් එකක් පුංචිබංඩාගේ නිවසේ තිබී සොයා ගත් බවත් එම ඇඳුම්වල ලේ පැල්ලම් දක්නට ලැබුණු බවත් එම ඇඳුම් වලින් කළුපාට දිග කලිසම **පැ.පී** වශයෙන් ද කළුපාට කොලරය ඇති රතුපාට ටී ෂර්ට් එක **පැ. කියු** වශයෙන් ද ලකුණු කර ඉදිරිපත් කර ඇත. සැකකරුවන්ව හඳුනා ගැනීමේ පෙරට්ටුවට සහ අධිකරණයට ආවරණය කරන ලද රථයකින් ඉදිරිපත් කළ බවටත් සාක්ෂි ලබා දී ඇත.

තවදුරටත් සාක්ෂිකරු කියා සිටියේ මෙම නඩු භාණ්ඩ පුංචිබණ්ඩාගේ නිවසේ තිබියදී ද නැතහොත් සැකකරුගේ නිවසේ තිබියදි සොයා ගත්තේ කියා නිශ්චිතව කීමට නොහැකි බවත් සැකකරුවන් තිදෙනාම ඔහුගේ මතකයේ හැටියට පොලිස් ස්ථානයට පැමිණ භාර වූ බවටත් සාක්ෂි ඇත.

As the Learned High Court Judge had considered the evidence of PW16 in his judgement, this ground of appeal also devoid any merit.

In the final ground appeal of the 1st Appellant, the Learned President's Counsel contended that the alibi taken by the accused have not been adequately considered by the Learned Trial Judge.

It is trite law that no burden is cast upon the accused to prove his alibi, as alibi is not a defence. It is the duty of the Learned High Court Judge to consider the alibi and if doubt arises in the mind of the Learned Trial Judge, the benefit of the doubt be awarded to the accused.

The Learned High Court Judge in his evidence at pages 810 to 816 of the brief had considered the evidence given by the 1st Appellant. Although he had taken up the position that he had spent the night in the paddy field, but had denied that he told police that he spent the night in the paddy

field. This contradiction had been marked as D8 by the prosecution. The relevant portion is re-produced below:

(Page 815 of the brief.)
එසේම "කඩවලවැවේ අපේ කුඹුරේ පැලට ගිහින් නිදා ගත්තා" වශයෙන් ඔහු පොලිසියට කී බව ප්‍රතික්ෂේප කළ බැවින් එය **ඩී.08** වශයෙන් පරස්පර විරෝධතාවයක් පැමිණිල්ලෙන් ලකුණු කර ඉදිරිපත් කර ඇත.

As this a vital contradiction on the evidence given by the 1st Appellant with regard to his alibi, I consider it is reasonable to disregard his evidence by the Learned High Court Judge in this case. Hence, this ground also has no merit.

I will now consider the appeal grounds advanced by the 2nd Appellant.

In his 1st ground of appeal, the Counsel for the 2nd Appellant contended that the identification of the 2nd Appellant at the scene of crime is doubtful. This is because PW1 is a close relation of both the deceased and he was living with the 1st Appellant's house 2-3 years prior to the incident and therefore, he was a known person to the witness.

In this case PW1 had clearly implicated that the 2nd Appellant was positively aided by holding the 2nd deceased when he was cut. This stance was never changed by the witness. Although the 2nd Appellant was not identified by his name, the witness had clearly said that she could identify him if she sees him again. Although PW1 knew that 2nd Appellant was residing in the 1st Appellant's house, but she had seen him first time at the crime scene along with 1st accused and 1st Appellant. The marked contradictions V1 and V2 on her evidence are not pertains to 2nd Appellant.

According to PW1 after hearing the cries of 1st deceased Cicilia when she looked at the front door, the 1st accused, and the Appellants were standing near the door of the 2nd deceased's room. Her stance that she did not see the Appellants and the 1st accused entering the house had been maintained throughout her evidence. Hence contradiction marked as V3 is not forceful enough to create a doubt on the prosecution case, the rejection of that

contradiction has not caused any prejudice to the 2nd Appellant. Further, none of the witnesses are expected give 100% accurate evidence in a trial.

In State of **Uttar Pradesh v. M. K. Anthony [AIR 1985 SC 48]** the court held that:

> *"While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more particularly keeping in view the deficiencies, draw-backs and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. Minor discrepancies on trivial matters not touching the core of the case, hyper-technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the : root of the matter would not ordinarily permit rejection of the evidence as a whole. …Even honest and truthful witnesses may differ in some details unrelated to the main incident because power of observation, retention and reproduction differ with individuals. Cross examination is an unequal duel between a rustic and refined lawyer."*

The Learned High Court Judge in his judgment at pages 787-788 and pages 808-809 of the judgment had considered the evidence pertains to the identification of 2nd Appellant as follows:

(Pages 787-788 of the brief.)

03 වන විත්තිකරු 02 වන විත්තිකරු සමඟ එම නිවසේ පදිංචිව සිටි බවත් සිද්ධියට කලින් ඔහුව දැක නැති බවත්, ප්‍රථම වතාවට 03 වන විත්තිකරුව දුටුවේ සිද්ධිය වූ වෙලාවේ බවත් ඊට පසුව හඳුනා ගැනීමේ පෙරට්ටුවේ දී හඳුනාගත් බවටත් සාක්ෂි දී ඇත. ඇයගෙන් තවදුරටත් අසා ඇත්තේ,

ප්‍ර : විශ්වාසයෙන් හඳුනා ගත්තා ?

උ : මට මැවි මැවි පේනවා මේ තුන් දෙනා හිටපු ආකාරය. මෙයාලගේ මේ රූපය මට මැවි මැවි පේනවා එදා ඒ වෙච්ච සිද්ධිය.

යනුවෙන් සඳහන් කරමින් 03 වන විත්තිකරු හඳුනා ගත් ආකාරය පෙන්වා සිටින ලදී. ඇය නුවර සිට අධිකරණයට පැමිණ සාක්ෂි දී ආපසු පොළොන්නරුවේ බසයට ගොඩ වූ අවස්ථාවේ මේ අය සාක්ෂි දුන්නොත් මරණවා කියා තර්ජනය කළ බවත් ඒ සම්බන්ධයෙන් තලාතුඔය පොලිසියට පැමිණිල්ලක් කළ බවත් ඒ අනුව ඇය බියෙන් සිටි බවත් සිද්ධිය සිදු වන අවස්ථාවේ දී විත්තිකරුවන් හා ඇය අතර අමනාපයක් නොතිබූ බවත් කුසුමාවතීගේ ගෙදර බලා දුවගෙන එන අවස්ථාවේ ඇයගේ පිටුපසින් කිසිවෙකු පන්නා ගෙන ආවාද යන්න සම්බන්ධයෙන් ඇයට කල්පනාවක් නොමැති බවටත් සාක්ෂි දෙන ලදී.

(Pages 808-809 of the brief.)

පැමිණිල්ල වෙනුවෙන් අනතුරුව වැඩබලන මහේස්ත්‍රාත් ආදම් ලෙබ්බේ තාහ නපි මුදීන් සාක්ෂි දී ඇත. ඔහු මෙම නඩුවට අදාළ සිද්ධිය සම්බන්ධයෙන් වූ හඳුනා ගැනීමේ පෙරට්ටුව පැවැත් වූ බවත් එම පෙරට්ටුව පවත්වනු ලැබුවේ ගස්පේ රාළලාගේ හේමන්ත දිසානායක සැකකරු සම්බන්ධයෙන් බවත් සැකකරුට නීතිඥ සහයක් නොතිබූ බවත් ඔහුට ඔහුගේ අයිතිවාසිකම් පහදා දුන් බවත මුල්ලේගම රන්දිලිසි වාසල මුදියන්සේලාගේ සීලවති ඒකනායක විසින් සැකකරුව හඳුනා ගත් බවත්ය. මෙම සාක්ෂිකරු ඒදින සැකකරුව හඳුනා ගත් සිලවති නැමැත්තිය ගෙන් ඒ අල්ලපු පුද්ගලයා එදා සිද්ධිය වුනු කාලයේ කුමක්ද කලේ කියා ප්‍රශ්න කළ අවස්ථාවේදි ඇය පිළිතුරු දී ඇත්තේ මෙසේය.

උ. මම ඒදින සිටියේ බැදිවැව නැන්දාගේ නිවසේ 93.07.25 වන දින රාත්‍රියේ 9.10 ට පමණ නැන්දා මුහුණ සොදන්න කියා දත් මදිමින් එළියට ගියා. ඒ අවස්ථාවේ දී මම හාන්සි වෙලා හිටියා. මියගිය අයියාත්, ඉස්තෝප්පු කාමරයේ හාන්සි වෙලා සිටියා. මේ වේලාවේ නැන්දා අපෙ අප්පෝ අපෙ අප්පෝ කියා කෑ ගසන ශබ්දයක් ඇසුණා. මම ඒ අවස්ථාවේ දී නැන්දා කෑ ගහන්නේ මොකද කියා බලන්න ගියා. මේ අවස්ථාවේ දී මියගිය අයියාත් සාලයට ආවා මම දැක්කා. මම මෙවිට දැක්කා මා දැන් පෙන්වූ පුද්ගලයා මියගිය අයියාව එක පාරටම අල්ලා ගන්නවා. අනිත් සැකකරුවන් දෙන්නාත්

මගේ මියගිය අයියාට කොටන අවස්ථාවේ දී මම බයට කුස්සිය පැත්තෙන් එළියට පැන සුදු අක්කලාගේ නිවසට ගියා. ඊටපසුව වූ දේ කියන්න මම දන්නේ නැහැ.

Therefore, this ground of appeal has no merit as the Learned High Court Judge had correctly considered the positive evidence pertains to identity of the 2nd Appellant.

In his 2nd ground of appeal, the Learned Counsel for the 2nd Appellant argued that the evidence of 2nd Appellant who gave evidence under oaths had not been evaluated and no reasons given for its rejection.

The Learned High Court Judge had considered the evidence given by 2nd Appellant in his judgment. After the evidence given by 1st and 2nd Appellant the Learned High Court Judge had considered their evidence in keeping with the legal principles that has to be followed in deciding a criminal trial. The relevant portion is re-produced below:

(Pages 818-819 of the brief.)

අපරාධ නඩුවක් විමසීමේ දී වැදගත් වන සිද්ධාන්ත නිරන්තරයෙන්ම මාගේ සිත් තුළ රඳා පවතී. අපරාධ නඩුවක විත්තිකරුවන්ට එල්ල කර ඇති චෝදනාව සාධාරණ සැකයෙන් තොරව ඔප්පු කිරීමේ බලට පැවරෙන්නේ පැමිණිල්ලටය. මෙම ඔප්පු කිරීමේ භාරය කිසිම අවස්ථාවකදී පැමිණිල්ලෙන් විත්ති පක්ෂය වෙත මාරු වෙන්නේ නැත. සාධාරණ සැකයේ වාසිය සෑමවිටම විත්තිකරුවන්ට හිමි විය යුතුය. කිසිවක් ඔප්පු කිරීමට විත්තිය බැඳී නැත. විත්තිකරුවන් ඔවුන්ගේ නිර්දෝෂිභාවය ඔප්පු කළ යුතු නැත. මේ ආදී වැදගත් සිද්ධාන්ත මාගේ සිතේ තබා ගෙන මෙම නඩුවේ සාක්ෂි කිරා බැලීම දැන් ආරම්භ කරමි.

The Learned High Court Judge had considered the evidence presented by the prosecution as true and therefore rejected the evidence of the defence. Hence, this ground also has no merit.

In the final ground the Counsel for the 2nd Appellant contended that the Contradiction V1 which goes to the root of the case was not considered by Learned High Court Judge.

According to PW1, 2nd Appellant was the person who possessed the sword and cut the 2nd deceased mercilessly and 1st accused had possessed an

iron rod. But in the non-summary she had said that 1st accused had cut the 2nd deceased with a sword. This contradiction was marked as V1 by the defence.

Considering the fact that witness PW1 had given evidence after 17 years of the incident the contradiction marked V1 does not impeach the credibility or the testimonial trustworthiness of her evidence. Further learned High Court Judge had given due consideration to her evidence when he analyzed her evidence in his judgment.

In **The Attorney General v.Sandanam Pitchai Mary Theresa** [2011] 2 SLR 292 the court held that:

> *"Whilst internal contradictions or discrepancies would ordinarily affect the trustworthiness of the witness statement, it is well established that the Court must exercise its judgment on the nature of the inconsistency or contradiction and whether they are true material to the facts in issue".*

Considering the circumstances under which the eye witness had witnessed the incident and the time period she had given evidence after the incident before the High Court, I consider the contradiction highlighted under this ground of appeal has no significant to this case as it is not forceful enough to affect the root of the case.

In this case the learned High Court Judge had considered and analyzed the evidence accurately even though he did not have the advantage of seeing the demeanour and deportment of the witnesses who had given evidence before his predecessor.

Further, the Appellants had given evidence under oaths and had been subjected to cross-examination by the State Counsel.

The single most important criterion in evaluating the fairness of a trial is the observance of the principle of equality of arms between the defence and the prosecution. Equality of arms, which must be observed throughout the

trial, means that both parties are treated in a manner ensuring their procedurally equal position during the course of the trial.

In this case the learned High Court Judge had considered the evidence presented by both parties to arrive at his decision. He has properly analyzed the evidence given by both sides in his judgment. As the evidence adduced by the Appellants failed to create a doubt over the prosecution case, the conclusion reached by the learned High Court Judge in this case cannot be faulted.

As discussed under the appeal grounds advanced by the Appellants, the prosecution had adduced strong and incriminating evidence against the Appellants. The Learned High Court Judge had very correctly analyzed all the evidence presented by all the parties and come to a correct finding that the Appellants were guilty of committing the murder of both deceased in this case.

Therefore, I affirm the conviction and dismiss the Appeal of the Appellants.

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

JUDGE OF THE COURT OF APPEAL

Sampath B.Abayakoon, J.

I agree.

JUDGE OF THE COURT OF APPEAL