

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

In the matter of an Appeal in terms of Section 331(1) of the Criminal Procedure Code Act No. 15 of 1979 of the Democratic Socialist Republic of Sri Lanka.

**Court Of Appeal Case No:**

**CA/HCC/ 0011/2021**

**Tangalle High Court**

**Case No: 25/2016**

Goigoda Gamage Thilakaratne

**Accused – Appellant**

**Vs.**

The Hon. Attorney General

Attorney General's Department

Colombo 12.

**Respondent**

**Before** :- **Hon. Justice Menaka Wijesundera**

**Hon. Justice B. Sasi Mahendran**

**Counsel** :- Isuru Somadasa for the Accused-Appellant.

Wasantha Perera, DSG for the Respondent.

**Decided on** :- 11.07.2023.

**Hon. Justice Menaka Wijesundera,**

Accused–Appellant is produced in Court via zoom platform by the Prison Authorities.

When this matter was taken up for argument, the Counsel appearing for the Accused-Appellant stated that the Accused-Appellant had been convicted for murder and the death sentence has been imposed by the trial Judge. But he is not contesting the conviction but, only the sentence imposed on the Accused-Appellant.

The Counsel appearing for the Accused-Appellant stated that the Accused-Appellant had been indicted for a charge of murder in the High Court and upon the conclusion of the trial the learned trial Judge had convicted him for the same and had imposed a death sentence.

The Counsel appearing for the Accused-Appellant stated that prosecution had led the evidence of the daughter of the deceased who had stated that the mother had been stabbed by the Accused with a knife and the injuries on the neck. He further said that the reason for this incident is that the deceased had been having an illicit affair with another person. But he further submitted that the said proposition has not been put to the prosecution witnesses in cross examination. In the dock statement made by the Accused-Appellant he had taken up this position.

The learned Deputy Solicitor General appearing for the Respondents also said that a line of defense taken up in the dock statement had not been put to the prosecution witnesses. Upon considering the submissions and the facts of the case, we observe that this Court is unable to vary the sentence imposed by the trial Judge in view of the gruesome nature of the act done by the Accused-Appellant, that he had committed the instant offense in the presence of his two

children who were below 10 years of age. As such, we are unable to grant any relief with regard to the sentence. The instant appeal is dismissed.

**JUDGE OF THE COURT OF APPEAL**

**Hon. Justice B. Sasi Mahendran**

I agree.

**JUDGE OF THE COURT OF APPEAL**

ANV/-