

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

In the matter of an appeal in terms of Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka and in terms of Section 331 of the Code of Criminal Procedure Act No: 15 of 1979.

**Court of Appeal**

**Case No: HCC-0083-21**

Laddasinghage Suranga Jeewantha

**High Court of Gampaha**

**Case No: HC 80/2001**

**Accused-Appellant**

**Vs.**

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

**Respondent**

Before : Hon. Justice Menaka Wijesundera  
Hon. Justice B. Sasi Mahendran

Counsel : Neranjan Jayasinghe Harshana Ananda for the  
Accused-Appellant.

Janaka Bandara, D.S.G. for the State.

Decided on : 12.07.2023

**Hon. Justice Menaka Wijesundera**

The learned Counsel appearing for the Accused-Appellant stated that he would invite this Court to review the sentence imposed on the Accused-Appellant.

The learned Deputy Solicitor General brought to the notice of Court that even at the trial stage before the judgment was entered, there had been a suggestion made in Court to find the Accused guilty for a lesser offence. However, he says that it had not

been considered in the judgment. The learned DSG has no objection for the application of the Counsel for the Accused-Appellant.

Both parties made submissions with regard to the sentence being reviewed. In view of the submissions made, we find that there is evidence of a sudden fight and that the deceased had sustained only one stab injury to the chest and that had been the cause of death.

Taking all the matters into consideration, this Court is of the view that the finding of the trial Judge for a charge of murder under Section 296 of the Penal Code should be varied for a finding of culpable homicide not amounting to murder based on Section 297 of the Penal Code on the basis of a sudden fight. As such, the death sentence entered by the trial Judge is hereby set aside and a sentence of 07 years rigorous imprisonment is imposed from the date of conviction which is 08.10.2021, and a fine of Rs. 25,000/-, in default one-year rigorous imprisonment is ordered. As the 1<sup>st</sup> Accused-Appellant is absconding, we issue an open warrant to the 1<sup>st</sup> Accused-Appellant.

Subject to the said variation, the instant appeal is dismissed.

JUDGE OF THE COURT OF APPEAL

**Hon. Justice B. Sasi Mahendran**

I agree.

JUDGE OF THE COURT OF APPEAL

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