

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

Lawrence Hewage Sarath Premaratne alias
Sarath Premawardena.

Accused-Appellant

C.A.Appeal No. 86/2009

High Court Trincomalee No.

HCT/134/06

-Vs-

The Attorney-General.

Respondent

Before: **Sisira. J. de Abrew, J &**
 P.W.D.C. Jayathilaka, J

Counsel: Chathura Galhena for the Accused-Appellant.
 Chethiya Goonesekera SSC for the Respondents.

Argued &

Decided on: 10.06.2013.

Sisira. J . de Abrew, J

Heard both counsel in support of their respective cases.

The accused-appellant in this case has been convicted of the murder of a man named Amaratunga Arachchilage Gamini and the murder of a child named Isuru alias Amaratunga Arachchilage Ashan Ranthilaka and was sentenced to death. He was also convicted of the offence of attempted murder where he attempted to commit the murder of Dahanpalage Susila Rathnamala who is the wife of the 1st deceased person (Amaratunga Arachchilage Gamini). He was, on the charge of attempted murder, sentenced to a term of 05 years Rigorous Imprisonment and to pay a fine of Rs. 5000/- carrying a default sentence of 03 months R.I.

The facts of this case as narrated by the prosecution witnesses may be briefly summarized as follows.

The accused-appellant was living in the adjoining house of the deceased person. When the accused-appellant and his wife quarreled, the wife of accused-appellant used to come to the deceased person's house for shelter. On the day of the incident around 12 mid night, the accused person's wife requested her to open the door. When she (Susila Rathnamala) opened the door, the accused-appellant fired at her with T. 56 rifle. He without stopping the firing continued to fire. Thereafter Susila Rathnamala ran away from the house and took shelter in the house of one Weerasuriya who was a neighbour.

She identified the accused-appellant with the aid of moon light. When she came back to her house she found her husband and the son lying fallen in a pool of blood. Her husband and the son both died as a result of the shooting by the accused-appellant .

The police officer who went to the scene found 24 empty cartridges at the scene. I.P.Piyaratne arrested the accused-appellant with a T.56 gun while he was sleeping in a coconut estate. The Government Analyst confirmed that the 24 cartridges had been fired by the gun that was taken into custody from the possession of the accused-appellant. The accused-appellant in his dock statement denied the incident.

The learned High court judge has rejected the dock statement. As I pointed out earlier, 24 empty cartridges found at the scene of offence had been fired by the gun that was taken into custody from the possession of the accused-appellant. When I consider this evidence, I hold the view that the rejection of the dock statement by the learned High Court Judge is correct.

Learned counsel appearing for the accused-appellant contended that the learned trial judge has not evaluated the evidence. But I am unable to agree with the said submission. When I consider the pages 15,16 and 17 of the judgment of the learned trial judge. In my view the learned trial judge has very correctly evaluated the evidence of the witnesses. When I consider the evidence led at the trial, I see no reason to interfere with the judgment of the

learned trial judge. It is relevant to note what the accused-appellant has stated when the learned trial judge acted under section 280 of the Criminal Procedure Code before passing the death sentence. When the learned trial judge asked the accused-appellant whether he has got to say anything, he addressed the Court in the following language .

“ Up to this point you have passed several death sentences. Up to this point no death sentence has been executed. Therefore execute my death sentence.” The said words by the accused-appellant can be considered by the Court of Criminal appeal in view of the Judgment of the Court of Criminal appeal in the case of ***Periyambalam Vs The Queen reported in 74 NLR page 515*** .

Court of criminal appeal in the said case held thus; “An admission made by an accused person in answer to the allocutus under section 305 of the Criminal Procedure Code is part of the evidence in the case, and the Court of Criminal appeal cannot ignore the effect of such admission .”

When I consider the evidence led at the trial and I hold the view that the prosecution has proved the case beyond reasonable doubt. I therefore affirm all three convictions and affirm two death sentences and the sentence imposed on the 3rd count. I dismiss the appeal.

Appeal dismissed.

Judge of the Court of Appeal

P.W.D.C. Jayathilaka, J

I agree.

Judge of the Court of Appeal

Kpm/-