

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

C.A.113/2011

H.C. Kandy No.95/2005

A. Ranjith
Dambulla.

Appellant

Vs.

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

Respondent

C.A.113/2011 - **H.C. Kandy No.95/2005**

Before : Sisira de Abrew, J. Acting P (C/A) and
P.W.D.C. Jayathilaka,J.

Counsel : Dr.Ranjith Fernando for the Accused-Appellant.
Dilan Rathnayake, SSC for the Respondent.

**Argued and
Decided on** : 26.11.2013

Sisira J. de Abrew, J. Acting (P/CA)

Accused-Appellant present in Court produced by the Prison Authorities.

Heard both counsel in support of their respective cases.

The accused-appellant in this case was convicted for committing the offence of culpable homicide not amounting to murder to his own wife namely, Herath Mudiyansele Koragahagoda Gedara Sriyani Herath Manike and was sentenced to a term of 14 years rigorous imprisonment and to pay a fine of Rs.25000/-carrying a default sentence of 6 months imprisonment. Being aggrieved by the said conviction and the sentence he has appealed to this Court. Learned Counsel appearing for the accused-appellant makes submission only for

the purpose of getting the sentence reduced. The facts of this case may be briefly summarized as follows:-

Sriyani Herath Menike who was the deceased woman in this case, prior to the incident, had gone abroad for employment and returned to the country. During her stay in the foreign country the accused-appellant had developed a love affair with another woman called Sriyani. After the deceased woman returned to the country she went and stayed with her mother. Thereafter the accused-appellant apologizing to his wife for his illicit love affair brought his wife back home. On the day of the incident both had exchanged words over the said love affair. The exchange of words especially had taken place with regard to the fact that the accused-appellant had not returned home on the previous night. The deceased woman thereafter tried to leave home on her bicycle but the accused appellant prevented her from leaving home as he deflated tires of the bicycle. It appears from the evidence led at the trial that there was an exchange of words between the husband and wife. The son of the accused-appellant had seen her father holding the neck of her mother and pressing to the wall. Sriyani Herath Menike died 12 days after the incident. Death had ~~been~~ taken place due to injuries of the spinal code.

Learned Counsel for the accused-appellant submits that the sentence imposed by the learned trial Judge is excessive. Learned trial

Judge has convicted the accused appellant for the offence of culpable homicide not amounting to murder on the basis of sudden fight. It appears from the facts of this case that the accused-appellant did not want his wife to leave home. This is evident by fact that he deflated tires of the bicycle. The accused did not use any weapon to cause injuries to his wife.

When we consider these matters and the facts of this case, we feel that sentence imposed by the trial Judge is little excessive. We therefore set aside the term of 14 years rigorous imprisonment and impose a term of 10 years rigorous imprisonment. We direct the Prison Authorities to implement the sentence from the date of conviction namely 30.09.2011. The fine imposed by the learned Trial judge remains unaltered. Subject to the above variation of the sentence the appeal of the appellant is dismissed.

Appeal dismissed.

ACTING PRESIDENT OF THE COURT OF APPEAL

P.W.D.C.Jayathilaka,J.

I agree.

JUDGE OF THE COURT OF APPEAL

WC/-