

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

**C.A. No. 205/10**

H.C.Kurunegala No. 15/2004

L.H.M. Chandana Dayan Bandara  
Bamunukotuwa

**Appellant**

**Vs.**

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

**Respondent**

C.A. No. 205/10

H.C.Kurunegala No. 15/2004 N.S.

BEFORE : ANIL GOONERATNE, J. &  
H.C.J. MADAWALA, J.

COUNSEL : Yasantha Kodagoda D.S.G. for the Appellant  
Anuja Premathilaka with Iromie Jayaratne and  
Nayana Dissanayake for the Accused-  
Respondent.

ARGUED AND

DECIDED ON : 28<sup>th</sup> January, 2015.

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**ANIL GOONERATNE, J.**

This appeal has been preferred by the State to set aside the sentence imposed by the learned High Court Judge and substitute a sentence according to law. Learned trial Judge has not imposed a fine. Learned Deputy Solicitor General, Mr. Kodagoda has addressed this Court and it is his position that the accused-respondent was convicted on or about December, 2010. The learned High Court Judge imposed a sentence of 2 years rigorous imprisonment and suspended it for a period of 8 years. He has also ordered a compensation in a sum of Rs.

1,000,000/=(one million) which carries a default sentence of 2 years rigorous imprisonment payable to the witness No.4 (the mother of the deceased, Indrani Bandara). This is a matter that arose as a result of an incident which took place at a hotel in Kurunegala. It was also submitted on behalf of the State that the accused and the deceased were having a love affair for a considerable length of time and they have been frequent visitors to the Hotel called "Vivekatenna Hotel". There is also material that both the accused and the deceased had been visiting this hotel at least on six occasions. Learned Deputy Solicitor General also submits that prior to the date of incident the accused and the deceased party had visited the same hotel. It appears that the incident took place due to grave and sudden provocation, of the deceased tearing or destroying the educational certificates of the accused which were to be presented on that very day of an interview to be held in Colombo. In the above circumstances, this Court is of the view that this is not a fit and proper case to interfere with the sentence of the learned High Court Judge. Learned Deputy Solicitor General at this stage brings to the notice of Court that the accused-appellant had a history of *bipolar affective disorder*. However, as matter of law, learned Deputy Solicitor General submits that a fine is imperative in terms of Section 297 of the Penal Code. In all the above circumstances, this Court does not wish to interfere with the sentence imposed by the learned High Court Judge.

However, we proceed to impose a fine of Rs.2500/= which carries a default sentence of one (01) year rigorous imprisonment. Subject to above the appeal is partly allowed only as regards the fine.

JUDGE OF THE COURT OF APPEAL

**H.C.J. MADAWALA, J.**

I agree.

JUDGE OF THE COURT OF APPEAL

Kwk/=