

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

Court of Appeal Case No: CA 59/2016

High Court Kurunegala Case No: 189/2010

H.M. Karunarathne Banda

Accused-Appellant

Vs.

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

Respondent

BEFORE : Deepali Wijesundera, J. &
L.U. Jayasuriya, J.

COUNSEL : Neranjan Jayasinghe for the accused-appellant.
Dileepa Peeris DSG for the respondent.

DECIDED ON: 16.06.2017

DEEPALI WIJESUNDERA, J.

The accused-appellant was indicted in the High Court of Kurunegala under Section 296 of the Penal Code. After trial he was convicted for murder and was sentenced to death.

Learned counsel for the accused-appellant argued that there was cumulative provocation which amounts to culpable homicide not amounting to murder. Learned DSG concedes that there has been cumulative provocation but moves if the sentence is varied it should be a heavy sentence.

Considering the evidence given by the two daughters of the deceased we find that there has been cumulative provocation and also from the evidence of the accused-appellant, we see that there has been cumulative provocation. Considering all these we convict the accused for culpable homicide not amounting to murder and bring down the sentence of death to 15 years rigorous imprisonment. The sentence should operate from the date of conviction.

We also order the accused to pay a fine of Rs. 10,000/- with a default term of 06 months.

Registrar is directed to convey this order to the Commissioner General of Prisons.

JUDGE OF THE COURT OF APPEAL

L.U. JAYASURIYA, J.

I agree.

JUDGE OF THE COURT OF APPEAL

KRL/-