

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

**Court of Appeal case no : CA HC/265/2013**

P.Wasantha Kumara  
Kottasha Gedara Road  
Mirissa.

**Petitioner**

**Vs.**

Hon Attorney General  
Attorney General's  
Department  
Colombo 12

**Respondents**

C.A. 265/2013 : H.C. Matara Case NO. 131/2011

Before : S. Devika de L. Tennekoon, J. &  
S. Thurairaja, PC J.

Counsel : Amila Palliyage for the Accused-Appellant  
Parinda Ranasinghe, S.D.S.G. for the A.G.

Argued &

Decided on : 24.10.2017.

S. Thurairaja, PC J.

Counsel for the accused-appellant on the last date indicated that he is challenging the conviction but he says considering the circumstances specially there was one injury caused on the deceased with an empty liquor bottle. Therefore, there is no pre-meditation. Hence he moves that the conviction for murder to be reduced to a conviction of culpable homicide not amounting to murder on the basis of sudden fight.

Mr. Parinda Ranasinghe, Senior Deputy Solicitor General appears for the Attorney General maintaining the highest traditions of the Attorney General's Department and submits that he concedes to the application on the basis of grave and sudden provocation. He leaves a sentence to the Court.

We consider the available material specially the Post Mortem Report available in the court record, we find that there is only one injury on the head and the cause of death was due to CRANIO-CEREBRAL injury due to blunt force trauma to the head. After careful consideration, we find that this is a fit and proper case for a conviction under Section 297 of the Penal Code for culpable homicide not amounting to murder on the basis of sudden fight. Therefore, we vacate the conviction for murder and convict the accused-appellant under Section 297 of the Penal Code. Regarding the sentence, we heard submissions of both counsel and we find that the accused-appellant was 21 years of age at the time of the incident and the deceased was 43 years old married with a child. After carefully considering all circumstances, the Court imposes a sentence of 10 years rigorous imprisonment to be implemented from the date of conviction namely, 19.12.2013. Considering the fact that the deceased was married and having a small child, the Court orders the accused-appellant to pay a compensation of Rs. 100,000/- to the wife and the child of the deceased and in default 2 years rigorous imprisonment. Further, we imposes a fine of Rs. 5,000/- in default 2 months. Default sentence will run consecutively.

Registrar is hereby directed to send the case record back to the Registrar of High Court of Matara.

Subject to the above variation, the appeal is allowed.

JUDGE OF THE COURT OF APPEAL

S. Devika de L. Tennekoon,J.

I agree

JUDGE OF THE COURT OF APPEAL

Cr/-