

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

Court of Appeal case no : CA HC/142/2013

W.M.T.S.Bandara Weerakoon
Ganegoda,
Pihimbuwa.

Petitioner

Vs.

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

Respondents

C.A 142/2013.

High Court of Kurunegala 73/2002.

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

Counsel : Dr. Ranjit Fernando for the Accused-Appellant.
Rohantha Abeysuriya S. D.S.G. for the
Respondent.

Argued &

Decided on : 17.10.2017.

S.Thurairaja, PC J.

Heard submissions of the counsel for the accused appellant. The case was adjourned for today to receive the submissions of the Attorney General. Senior Deputy Solicitor General maintaining the highest tradition of the department and make submissions to assist the Court. The SDSG submits that he is not supporting the conviction for murder and he agrees with the counsel for the accused appellant and supports conviction for culpable homicide not amounting to murder on the basis of cumulative provocation and on a sudden incident at the last date. Considering the fact that the incident has happened on just after the new year day and within the compound of the accused appellant raises the concern of the Court. As the SDSG submits that there are many circumstances of which receives the attention of court to consider for a conviction of culpable

homicide not amounting to murder. After carefully considering the proceedings and submissions of both counsel, this court agrees with the counsel that this is not a case for a conviction of murder. Therefore we vacate the conviction for murder and enter a conviction of culpable homicide not amounting to murder on the basis of culminate provocation and sudden fight and impose the sentence of 12 years rigorous imprisonment and a fine of Rs. 2500/- in default three months simple imprisonment. Counsel for the accused appellant submits that the accused appellant was incarcerated from 30.08.2013 and he pleads with the court to implement the sentence from the date of conviction. State has no objection for that application. Accordingly we direct the Prison Authority to implement the sentence from the date of conviction namely, 30.08.2013. The Registrar is hereby directed to return the case record to the High Court of Kurunegala to implement the sentence. Appeal partly allowed.

JUDGE OF THE COURT OF APPEAL.

S. Devika de L. Tennakoon, J.

I agree.

JUDGE OF THE COURT OF APPEAL.

Vkg/-