

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

Court of Appeal Case No : CA HC/182-183/2014

H.Gamge Nandana

Petitioner

Vs.

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

Respondents

CA/ 182 – 183 / 2014

HC Puttlam Case No: 26/2006

BEFORE : **S. Devika de L. Tennekoon, J**
S. Thurairaja, P.C, J

COUNSEL : Dr. R. Fernando for the 1st Accused Appellant.
Shanaka Ranasinghe, PC with N. Mihidukulasooriya for
the 2nd Accused Appellant.

H. I. Peiries - DSG for the AG

DECIDED ON : 11.12.2017

S. Thurairaja, P.C, J

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

Represented by respective Counsels.

Counsel for the Accused Appellants make submissions and submits that this is not the case of murder but culpable homicide not amounting the murder, on the basis of a sudden fight and explained for facts to the Court. The Counsel for the Attorney General, Deputy Solicitor General Mr. Hiranjan Peries maintaining the highest tradition of the Attorney General's Department and concede to the fact that this is a case of culpable homicide not amounting the murder on the basis of sudden fight. Both Counsel for Accused Appellants make submissions in mitigating the sentence, the Deputy Solicitor General submits that he is seeking an appropriate Sentence but leaving the quantum of the Sentence to the discretion of the Court.

After considering, the entire facts, the Court observes participation of the Accused Appellants are different.

Considering the submissions made by the both Counsels for the Accused - Appellants Respondent and the facts before the Court, we set aside the conviction for murder and convict the Accused Appellants under section 297 for culpable homicide not amounting to murder on the basis of sudden fight. Considering the submissions and the fact, we impose following sentence to the Accused Appellants.

- I. For the 1st Accused Appellant - We impose a terms of 10 years rigorous imprisonment and a fine of Rs. 10, 000/- in default six months simple imprisonment.
- II. For the 2nd Accused Appellant - We impose a terms of 6 years rigorous imprisonment and a fine of Rs. 10, 000/- in default six months simple imprisonment.

Since they were incarcerated from the date of conviction We direct the Prison Authorities to implement the sentence from the date of conviction namely 30.10.2014.

Appeal partially allowed.

JUDGE OF THE COURT OF APPEAL

S. Devika de L. Tennekoon, J

I agree

JUDGE OF THE COURT OF APPEAL