

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

J.G. Sunanda Perera

Accused-Appellant

C.A. Appeal No. 176/2009

H.C. Negombo Case No. 520/2004

Vs.

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

Respondent

Before : **Sisira de Abrew, J. &
D.S.C.Lecamwasam, J.**

Counsel : Rakitha Abeysinghe for the
Accused-Appellant

Savindra Fernando D.S.G. for the Attorney
General

Argued &
Decided on : 02.11.2011.

Sisira de Abrew, J.

Heard both counsel in support of their respective cases.

The accused-appellant in this case and two others were indicted for the offence of murder and for the offence of robbery. After the commencement of the trial, the learned prosecuting State Counsel withdrew the charge of robbery. At the trial the father of the deceased gave evidence. After the conclusion of the evidence of 3 witnesses, all three accused pleaded guilty to the offence of culpable homicide not amounting to murder on the basis of a sudden fight. The learned High Court Judge sentenced the 1st accused-appellant ^{to} a term of 14 years rigorous imprisonment and to pay a fine of Rs. 25,000/- carrying a default sentence of 1 year imprisonment. Being aggrieved by the said sentence, the 1st accused-appellant has appealed to this Court.

Facts of this case may be briefly summarized as follows:

On the day of the incident around 4.30 p.m. when the deceased went in search of the watcher of their estate, he met the 2nd accused in this case and there was an exchange of words between the 2nd accused and the deceased. We note that at this time the deceased and his father had arrived at the scene of the

offence from their permanent residence at Piliyandala. After the exchange of words between the 2nd accused and the deceased, the deceased went and informed the matter to his father. Thereafter the 2nd accused, the 1st accused and the others came near the entrance of the deceased person. On seeing the crowd, father went near the gate followed by the son. Thereafter the 2nd accused attacked the father of the deceased with a club and when the deceased came to the rescue of the father, the 1st accused-appellant attacked the deceased with a Manna knife. According to the evidence, the deceased had been given four blows with the Manna knife. Father gave evidence at the trial describing the incident.

Learned counsel appearing for the 1st accused-appellant submits that the sentence imposed by the learned trial Judge was excessive. When we consider the facts of the case, we are of the opinion that the sentence imposed by the learned trial Judge is not excessive. Further we note that the 1st accused-appellant has three previous convictions in respect of cases of robbery. When we consider all these matters, we are of the opinion that we should not interfere with the sentence imposed by the learned trial Judge and we therefore dismiss the appeal.

We direct the prison authorities to implement the sentence imposed on the 1st accused-appellant by the learned trial Judge from the date of this judgment (02.11.2011). The learned High Court Judge is directed to issue a fresh committal complying with this direction.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

D.S.C. Iecamwasam, j

I agree.

JUDGE OF THE COURT OF APPEAL

/mds