

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

In the matter of an appeal under and in terms of Section 331 (1) of the code of Criminal Procedure Act No.15 of 1979.

Democratic republic of Sri Lanka.

CA HCC No. 348/2017

HC Matara Case No. 24/2016

Complainant

Vs.

Rotumba Siri Sudewa Thero and two others

3rd Accused

And Now Between

Rotumba Siri Sudewa Thero and two others

3rd Accused Appellant

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Vs.

Hon. Attorney General

Attorney General Department

Colombo 12.

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Respondent

Before : **Hon. Justice Achala Wengappuli**
Hon. Justice Devika Abeyratne

Accused-Appellant is present in Court on bail

Counsel : U.R. De Silva PC with Savithri Fernando for the Accused-Appellant
Riyaz Bari SSC for the Hon. AG.

Decided on : 23.01.2020

Hon. Justice Achala Wengappuli,

Learned President's Counsel for the Accused-Appellant confines his appeal only to the question of sentence and submits to this Court that there is no act committed by the Accused-Appellant as per the evidence revealed from the prosecution's case. The Accused-Appellant was initially charged along with two other Accused for committing a murder. However, after trial the learned High Court Judge had convicted all three accused only for causing hurt and were punished the Accused with imposition of 3 years Rigorous Imprisonment.

Learned Senior State Counsel who resists the application of the learned President's Counsel for reduction of sentence, submits to Court that although there is no positive act by the Accused-Appellant, there was evidence of supplying a piece of rope to the 1st and 2nd Accused who took a very active role in inflicting the 32 injuries that were found on the body of the deceased.

Learned President's Counsel for the Accused-Appellant highlights that this item if evidence has been contradicted by another witness who says it was the 1st and the 2nd Accused-Appellants who fetched a piece of rope.

Having considered the submissions and the basis of conviction and sentence of the learned High Court Judge, we are of the opinion that justice would be met, if the sentence imposed on the 3rd Accused-Appellant is reduced to 2 years Rigorous Imprisonment, suspended for a period of 10 years,

Therefore, conviction of the 3rd Accused-Appellant is affirmed. His sentence is reduced to 02 years imprisonment suspended for a period of 10 years.

The relevant High Court is directed to comply with Section 303 of the Criminal Procedure Act in explaining the effect of the suspended term.


Website Copy
Judge of the Court of Appeal

Hon. Justice Devika Abeyratne

I agree.


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Judge of the Court of Appeal

TTS/-