

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

Suranjith Jagoda

Accused-Appellant

HCC-0133-09

HC Galle Case No. HC 3039 **Vs.**

Hon. Attorney General,

Attorney General's Department,

Colombo 12.

Respondent

HCC-0133-09 : HC Galle Case No. HC 3039

Before : K.K. Wickremasinghe,J.  
K. Priyantha Fernando,J.

Counsel : Chathura Galhena for the Accused-Appellant  
Dilan Ratnayake, DSG for the Respondent

Argued &

Decided on : 17.01.2020

K.K. Wickremasinghe,J.

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

Both counsel made submissions in respect of their cases.

In the instant case the Accused-Appellant indicted for committing murder of his own father. This case was a jury trial. When this case came up in the High Court of Galle, Dr. Neil Fernando had testified that the Appellant was suffering from schizophrenia and therefore he was not in a normal state of mind at the time he was committing the offence. The counsel for the Appellant submitted that *Actus reus* was admitted at the trial but *mens rea* was challenged by the defence on insanity. When the learned High Court Judge was summing up the jury, he has not directed the jury on the defence of insanity and thereby there is a fatal non direction by the learned High Court Judge. Therefore, no direction had been given on the standards of proof on the defence of insanity. There is clear evidence by Dr. Neil Fernando about the condition of the Accused-Appellant with regard to his insanity where the learned High Court Judge has not adequately referred to the jury in his summing up. Also it can be considered as a misdirection on the standards of proof directed to the jury. The available evidence does not warrant to send this case for re-trial.

Considering the above facts, it is evident that under these circumstances, the conviction cannot stand. Accordingly, we set aside the conviction for murder against the Accused-Appellant.

Accordingly, the Accused-Appellant is acquitted. However, it is an admitted fact that the act was committed by the Accused. Therefore, this Court directs the Registrar to send this case back to the High Court to act under Section 381 and 382 of the Code of Criminal Procedure Act.

Registrar is directed to send a copy of this judgment to the learned High Court Judge and the Prison Authorities.

Prison Authorities is directed to produce the Accused-Appellant before the High Court of Galle on 12.02.2020.

Website Copy

  
JUDGE OF THE COURT OF APPEAL

K. Priyantha Fernando, J.

I agree.

Website Copy

  
JUDGE OF THE COURT OF APPEAL

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