

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

In the matter of an Appeal made under
Section 331 of the Code of Criminal
Procedure Act No.15 of 1979.

Court of Case No. Sangeeth Maduranga Rajapaksha

CA/HCC/0269/2023

High Court of Embilipitiya **ACCUSED-APPELLANT**

Case No. HCE 18/2019

Vs.

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

COMPLAINANT-RESPONDENT

BEFORE : **P. Kumararatnam, J.**
R. P. Hettiarachchi, J.

COUNSEL : **Darshana Kuruppu with Tharushi Gamage,
Anjana Adhikaramge and Rajitha Kulatunga
for the Appellant**
Maheshika Silva, DSG for the Respondent.

ARGUED ON : **17/11/2025**

DECIDED ON : **18/12/2025**

JUDGMENT

P. Kumararatnam, J.

The above-named Accused-Appellant (hereinafter referred to as the Appellant) was indicted for committing the murder of Peramuna Arachchige Somasiri on 24/02/2012 which is an offence punishable under Section 296 of the Penal Code.

After a non-jury trial, the Learned High Court Judge has found the Appellant guilty of the charge and sentenced him to death on 09/11/2023.

Being aggrieved by the aforesaid conviction and sentence, the Appellant preferred this appeal to this court.

The Learned Counsel for the Appellant informed this court that the Appellant has given consent to argue this matter in his absence. Also, at the time of argument the Appellant was connected via the Zoom platform from prison.

On behalf of the Appellant only one Ground of Appeal is raised. According to the counsel for the Appellant, evidence led at the trial warrants the consideration of whether the totality of the evidence supports the inference of a murderous intention beyond reasonable doubt, or whether the

circumstances instead point to a lesser culpability, either on the basis of knowledge or any mitigatory plea.

Background of the Case

According to the prosecution, the Appellant had a long-standing dispute with the deceased, who is his father-in-law. On the day of the incident too, the Appellant had threatened the deceased and his wife at the Bank of Ceylon premises, Embilipitiya. On the same day, while the deceased was driving his three-wheeler from Embilipitiya to Panagoda, it had collided with the Appellant's van which was heading towards the opposite side. The stance of the prosecution is that the Appellant had deliberately collided with the three-wheeler and committed the murder of the deceased.

The Appellant from the inception of the trial, took up the position that the incident was purely accidental. In his dock statement, he had taken up the position that when he was driving towards Embilipitiya, a truck had overtaken his vehicle recklessly. In order to avoid the said vehicle, when he moved his vehicle from the left side to the right, it collided with a three-wheeler. According to him, until he saw the deceased, he was not aware that the injured was his father-in-law. He had taken quick steps to admit the deceased to the hospital and had remained at the place of the incident until the arrival of the police.

The learned Counsel for the Appellant submitted that there is no evidence whatsoever that the Appellant knew the deceased would be travelling along that route in his three-wheeler.

Therefore, the learned Counsel appealing to this court, claimed that it is more appropriate to convict under culpable homicide not amounting to murder under 297 of the Penal Code on the basis of knowledge in this case.

The learned Deputy Solicitor General for the Respondent, upholding the highest tradition of the Attorney General's Department, conceded that the Appellant cannot be convicted for murder.

In this case the defence was unable to place any evidence regarding the existence of a general or special exception during the trial on a balance of probability. Under these circumstances, the learned High Court Judge should have directed his mind to the circumstances and considered the fact that the Appellant is entitled to have the benefit of the lesser verdict.

In **The King v Bellana Vithanage Eddin** 41 NLR 345 the court held that:

"In a charge of murder, it is the duty of the judge to put to the jury the alternative of finding the accused guilty of culpable homicide not amounting to murder when there is any basis for such a finding in the evidence on record, although such defence was not raised nor relied upon by the accused."

Analysing the evidence presented in this case it clearly demonstrates that the events described above do not establish the existence of a murderous intention. The evidence clearly shows that the stressful events and the strained relationship between the Appellant and the deceased had not resulted in the unfortunate incident. The Learned High Court Judge had failed to consider the non-existence of the murderous intention of the Appellant.

At present the Appellant is suffering from fatty liver Grade II along with an abdominal condition. He also has to support his elderly parents. His pre-detention period of remand has run for more than one year. At present he is in remand pending appeal since 09.11.2023.

Considering all the circumstances stressed before this court, I conclude that it is appropriate to consider this case under Section 297 of the Penal Code on the basis of knowledge only, for the Appellant's benefit.

Hence, I set aside the death sentence and convict the Appellant for culpable homicide not amounting to murder under Section 297 of the Penal Code (second limb). I sentence the Appellant for 04 years rigorous imprisonment commencing from the date of conviction namely 09/11/2023.

Further, the Appellant has to pay a fine of Rs.10,000/- with a default sentence of 06 months simple imprisonment.

Additionally, I order a compensation of Rs.300,000/- to the family of the deceased, with a default sentence of 01-year simple imprisonment.

Subject to the above variation, the appeal is dismissed.

The Registrar is directed to send this judgment to the High Court of Embilipitiya along with the original case record.

JUDGE OF THE COURT OF APPEAL

R. P. Hettiarachchi, J.

I agree

JUDGE OF THE COURT OF APPEAL