

RANJITH

v.

STATE

COURT OF APPEAL
HECTOR YAPA, J.
KULATILAKE, J.
CA 98/96
HC MATARA 83/95
APRIL 28TH, 2000
MAY 2ND, 2000

Penal Code - Murder - Stabbing - Medical experts states injuries inflicted by a blunt weapon - Dying declarations - Is it safe to base a conviction for murder solely upon a dying declaration.

The Accused who was indicted for murder was found guilty of culpable homicide not amounting to murder. The Trial Judge directed the Jury that the case rests solely on the three dying declarations. In appeal it was contended that the direction given to the Jury emphasising the sanctity attached to a dying declaration is not the correct exposition of the law relating to the admissibility of dying depositions, and that the Trial Judge failed to direct the Jury to look for factors that would tend to corroborate a dying deposition and further the Trial Judge failed to adequately direct the Jury with regard to the inherent weaknesses in the evidence led.

Held :

(i) The classical view of sanctity attached to a dying declaration had been placed before the Jury by the Trial Judge in a more emphatic language, thus causing much prejudice to the accused appellant's case.

(ii) Ordinarily it is not safe to base a conviction for murder solely upon a dying declaration. The evidence of the Medical Expert vis-a-vis the dying declaration made, serious doubt arises as to the truthfulness of the utterances itself which speaks of stabbing with a knife, in the post mortem report there isn't a single stab injury.

(iii) The medical evidence not only contradicts the dying declaration but in fact demolishes it in toto. The jury had not received adequate evidence on this vital point.

APPEAL from the Judgment of the High Court of Matara.