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

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

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

Complainant

Court of Appeal
Case No. CA HCC 140/2019

Vs.

High Court of Kandy
Case No. HC 188/2010

Kammalgoda Mudalige Priyantha Hewasinghe

Accused

AND NOW BETWEEN

Kammalgoda Mudalige Priyantha Hewasinghe

Accused-Appellant

Vs.

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

Complainant-Respondent

Before: **B. Sasi Mahendran, J.**
Amal Ranaraja, J.

Counsel: Jagath Nanayakkara with Udaya Bandara (Attorneys-at-Law) for the Accused-Appellant.

Azard Navavi, A.S.G. for the Respondent.

Argued on: 01.09.2025

Judgment on: 10.10.2025

JUDGMENT

AMAL RANARAJA, J.

1. The Accused-Appellant (hereinafter referred to as the "Appellant") has been indicted in the *High Court of Kandy* in High Court case number HC/188/2010.

   The charge of the indictment is as follows;

   > Charge 01
   >
   > That on or about February 16, 2010, in the District of *Kandy* within the jurisdiction of this Court, the appellant has committed murder by causing the death of one *Muthuthanthrilage Alex Udaya Perera* and have thereby committed an offence punishable under Section 296 of the Penal Code.

2. At the conclusion of the trial, the learned High Court Judge has found the appellant guilty of the charge and thereafter convicted him thereof and sentenced him to death.

3. The appellant aggrieved by the conviction, disputed judgment, together with the sentencing order has preferred the instant appeal to this Court.

Case of the prosecution

4. The elder daughter of the deceased, who is also the wife of the appellant, has been married to him at the time of the incident described in the charge set out in the indictment. The appellant, along with his wife and children have resided in a house in close proximity to that of the deceased and his family. A few days before the incident, the elder daughter of the deceased has returned to her parents' home with her children due to matrimonial issues with the appellant.

5. On the day of the incident, the appellant has visited the deceased's house, and requested his wife i.e. the daughter of the deceased, to return to their matrimonial home. She has however, refused his request.

6. This refusal has led to a quarrel between the appellant and his wife in the kitchen of the deceased's residence. The deceased has intervened asking the couple to stop quarrelling. At that moment, the appellant has left the house through the kitchen door.

7. Shortly thereafter, the appellant has returned, entering the house in the same manner as he had left. He has then stabbed the deceased in the kitchen. This violent act has been witnessed by PW01, the wife and another daughter of the deceased. Tragically, the deceased has succumbed to his injuries.

8. *Dr. M. R. Dissanayake*, the *Judicial Medical Officer* has conducted a post-mortem examination on the deceased and subsequently prepared a post-mortem report which has been marked as exhibit "Z".

9. *Dr. M. R. Dissanayake*, has stated that the cause of death of the deceased was internal hemorrhage resulting from a stab wound. He has also concluded that the corresponding injuries sustained to the internal organs of the deceased were necessarily fatal.

Case of the appellant

10. The appellant has asserted that he is unaware of the incident mentioned in the complaint and has maintained his innocence regarding any criminal activity.

Ground of appeal

11. Then the matter was taken up for argument. The Counsel for the appellant has urged the following ground of appeal,

    i) The learned High Court Judge has not considered the contradictions and omissions in the evidence of PW01 and also the contradictions between the evidence of PW01 and PW02 (*inter se*).

12. The evaluation of contradictions or omissions plays a pivotal role in determining the reliability of evidence and credibility of witness testimony. Material contradictions refer to discrepancies in statements or evidence that are significant enough to undermine the integrity of a case. These inconsistencies can arise from conflicting testimonies or variations in physical evidence.

13. On the other hand, omissions pertain to the absence of critical information that might significantly influence the outcome of a case. When a witness fails, to disclose relevant facts or details, it can create a distorted understanding of the circumstances surrounding the case.

14. The Judge bears the responsibility of processing the credibility and reliability of evidence presented during a trial. The evaluation requires a clinical understanding of the context within which the evidence is provided, as well as an awareness of the implications of the contradictions and omissions.

15. It is essential for a Judge to consider the circumstances surrounding the contradictions and omissions. For instance, the minor discrepancies may not impact the overall credibility of a witness if it can be satisfactorily explained, such as a simple of lapse of memory.

16. Judges must also determine whether the contradictions or omissions are material to the case. A minor inconsistency may not significantly affect the case's outcome while a crucial omission or contradiction could alter the trajectory of the proceedings.

17. Judges should evaluate how the contradictory or omitted information aligns with other pieces of evidence of the case. If a witness's testimony is consistently corroborated by physical evidence or other testimonies, it may lend credence to the testimony despite minor contradictions. A witness's motivations for providing testimony and possible biases will also be factors to be taken into consideration.

18. In the case of *Mahathun and Others Vs. The Attorney General* [2015] 1 SLR 74, H.N.J. Perera, J. (as he was then), has held:

> *"(1) When faced with contradictions in a witness testimonial, the Court must bear in mind the nature and significance of the contradictions, viewed in light of the whole of the evidence given by the witness.*
>
> *(2) Too great a significance cannot be attached to minor discrepancies, or contradictions.*

(3) What is important is whether the witness is telling the truth on the material matters concerned with the event.

(4) Where evidence is generally reliable much importance should not be attached to the minor discrepancies and technical errors.

(5) The Court of Appeal will not lightly disturb the findings of a trial judge with regard to the acceptance or rejection of testimony of a witness unless it is manifestly wrong."

19. In pages 13, 14, 15 and 16 of the disputed judgment, the learned High Court Judge has undertaken a thorough analysis of the contradictions and omissions that had been highlighted during the testimonies of witnesses PW01 and PW02.

20. The learned High Court Judge has meticulously addressed these discrepancies, reflecting on their significance within the broader context of the case. The learned High Court Judge notes that the witnesses have provided satisfactory clarifications for these inconsistencies, reinforcing that reliability.

21. Furthermore, in other instances, the learned High Court Judge has taken into account that the testimonies of the disputed witnesses are supported by additional evidence from other witnesses and physical evidence presented during the trial. This corroboration has served to strengthen the credibility of PW01 and PW02, as it suggests that their testimonies are consistent with the testimonies and the evidence at hand. The learned High Court Judge has also proceeded to determine that some other contradictions or omissions are not material to the case.

22. Thus, given the thorough analysis undertaken by the learned High Court Judge and the strong foundation of evidence supporting PW01 and PW02, it is reasonable to conclude that the Judge has acted with sound judicial reason.

23. In those circumstances, I am not inclined to interfere with the conviction and disputed judgment together with the sentencing order and dismiss the appeal.

Appeal dismissed.

I make no order regarding costs.

24. The Registrar of this Court is directed to send this judgment to the *High Court of Kandy* for compliance.

Judge of the Court of Appeal

B. SASI MAHENDRAN, J.

I agree

Judge of the Court of Appeal