

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

Gurusinghe Arachchilage Sunil
Accused-Appellant.

C.A. HCC No. 140/2018

Vs.

H. C. Kegalle No. 3235/2013

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

Complainant-Respondent

C.A. HCC No. 140/2018

H. C. Kegalle No. 3235/2013

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

Counsel : Udara Wijayamuni Zoysa appears for Accused-Appellant.
Varunika Hettige, DSG for A.G.

Argued &

Decided on : 04.12.2019.

Hon. K.K. Wickremasinghe, J

Counsel appearing for the Appellant informs Court that he is withdrawing the appeal against the conviction. Therefore the conviction of the accused-appellant is affirmed.

Learned Counsel for the Appellant informs Court that the Accused-Appellant has committed the offence under knowledge. When considering the judgment it is apparent that the learned High Court Judge also has considered that the Appellants have committed the offence under knowledge (page 172 of the brief). Learned DSG appears for the Respondent concedes to the above facts. Therefore according to Section 297 of the Penal Code it states that.....

“..... with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.”

Therefore whoever commits culpable homicide not amounting to murder where the act is done with knowledge shall be punished for a maximum of 10 years imprisonment. Accordingly, considering the prescribed sentence, we set aside the 12 years imprisonment sentence and substitute 8 years sentence imprisonment. Further, this court order that the fine and the default sentence to remain unchanged. Eight years rigorous imprisonment to be operative from the date of the sentence imposed namely 06.09.2018.

Subject to the above variation of the sentence the appeal is hereby dismissed without costs.

JUDGE OF THE COURT OF APPEAL

Hon. K. Priyantha Fernando, J.

I agree.

JUDGE OF THE COURT OF APPEAL

AKN