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

In the matter of an appeal in terms of section 331 (3) of the Code of Criminal Procedure Act.15 of 1979 read with Article 139 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Democratic Socialist Republic of Sri Lanka.

Complainant

Vs

Amaratunga Arachchilage Ruwan Sampath

Accused

AND NOW BETWEEN

Amaratunga Arachchilage Ruwan Sampath

Accused-Appellant

Vs

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

Complainant-Respondent

Court of Appeal Case No:
CA/HCC/0257/24

High Court of Negombo Case No:
HC 67/2015

Before	:	**P . Kumararatnam, J.** **Pradeep Hettiarachchi, J.**
Counsel	:	Chatura Amaratunga for the Accused - Appellant. Damithini De Silva, SSC for the Respondents.
Argued on	:	25.06.2025
Decided on	:	29.08.2025

Pradeep Hettiarachchi, J

JUDGMENT

1. The sole question for determination in this appeal is whether the sentence imposed on the accused–appellant (hereinafter "the appellant") by the learned High Court Judge of Negombo is excessive, given the facts of the case and, in particular, the circumstances under which the alleged offence was committed.

2. The appellant was indicted before the High Court of Negombo for the murder of Manchanayaka Arachchilage Maheshi Dilshani, an offence punishable under section 296 of the Penal Code. The trial was conducted without a jury by the learned High Court Judge, who, at the conclusion of the trial, found the appellant guilty under section 297 of the Penal Code and sentenced him to eighteen years' rigorous imprisonment. Additionally, the appellant was ordered to pay a fine of Rs. 10,000, with a default sentence of three months' imprisonment. Aggrieved by this sentence, the appellant has preferred the present appeal.

Background to the appeal:

3. At the time of the incident, the deceased was a student of Kotadeniyawa Vidyalaya and was having an affair with the appellant, a soldier attached to the Sri Lanka Army. Both had attended the same school before completing their O/L examinations. On the day of the incident, the appellant, who was on leave, came to the Kotadeniyawa bus station to meet the deceased. While they were talking, the appellant asked her to go with him, but she refused. In response, the appellant threatened that he would swallow some tablets if she did not comply, yet the deceased still refused. Suddenly, the appellant pushed her against the closed doors of a nearby boutique, stabbed her, swallowed something, and then collapsed. The deceased was later taken to hospital, where she succumbed to her injuries after several days.

4. The counsel for the appellant argued that the appellant had acted under grave and sudden provocation, which was the cumulative effect of a series of events that had transpired between the deceased and the appellant. It was therefore argued that the sentence imposed was excessive and should be reduced. It is noteworthy that neither the appellant nor the respondent filed written submissions in this appeal. When the

matter was taken up for argument, the appellant primarily relied on the grounds set out in the petition of appeal. A perusal of the High Court proceedings reveals that no submissions in mitigation were made prior to the imposition of the sentence. Furthermore, the learned High Court Judge did not provide any reasons for imposing a sentence of 18 years' rigorous imprisonment along with the fine.

5. Therefore, I shall consider whether any mitigating factors exist, taking into account the facts of the case, particularly the attendant circumstances, the ages of both the victim and the appellant, and, more importantly, the modus operandi of the crime, along with other relevant considerations.

6. It is undisputed that the appellant stabbed the deceased, who later succumbed to her injuries at the Gampaha Hospital. The evidence establishes that the appellant and the deceased were engaged in conversation shortly before the incident. In his testimony, the appellant admitted that he had purchased a knife on his way to meet the deceased, claiming it was for self-defence as he believed certain persons were waiting to assault him, a claim I am not inclined to accept for the reasons mentioned below.

7. Weerapppulige Mahesh Kumara Ranasinghe, a defense witness, confirmed that the appellant and the deceased were having an affair. Since the appellant didn't have a phone at the time, Ranasinghe helped them communicate. According to Ranasinghe, the day before the incident, the deceased called him and asked him to tell the appellant to meet her. Ranasinghe passed on this message.

8. This testimony shows that Ranasinghe was one of the appellant's closest friends and was aware of the affair. However, Ranasinghe did not provide any evidence that anyone was planning to assault the appellant. If there had been a plan to assault the appellant, as he claimed, it is highly likely he would have told Ranasinghe, especially since Ranasinghe was the one who arranged the meeting with the deceased. Therefore, the appellant's reasons for buying the knife are unconvincing and cannot be accepted.

9. In determining the appropriateness of the sentence in the present case, the following authorities would be of considerable assistance.

10. As to the matter of assessing sentence in a particular instance, Basnayake A.C. J in the case of ***Attorney-General v H.N. de Silva (57 NLR 121)*** stated as follows;

"... in assessing the punishment that should be passed on an offender, a Judge should consider the matter of sentence both from the point of view of the public and the offender. Judges are too often prone to look at the question only form the angle of the offender. A Judge should, in determining the proper sentence, first consider the gravity of the offence as it appears from the nature of the act itself and should have regard to the punishment provided in the Penal Code or other statute under which the offender is charged. He should also regard the effect of the punishment as a deterrent and consider to what extent it will be effective. "

11. In ***Dhananjoy Chaterjee vs State of West Bengal [1994 SCR (1) 37, 1994 SCC (2) 220]*** Indian Supreme Court authoritatively set out some important factors that are to be considered in determining the sentence on an accused person in a crime against a woman as follows:

In recent years, the rising crime rate-particularly violent crime against women has made the criminal sentencing by the courts a subject of concern. Today there are admitted disparities. Some criminals get very harsh sentences while many receive grossly different sentence for an essentially equivalent crime and a shockingly large number even go unpunished, thereby encouraging the criminal and in the ultimate making justice suffer by weakening the system's credibility. Of course, it is not possible to lay down any cut and dry formula relating to imposition of sentence but the object of sentencing should be to see that the crime does not go unpunished and the victim of crime as also the society has the satisfaction that justice has been done to it. In imposing sentences, in the absence of specific legislation, Judges must consider variety of factors and after considering all those factors and taking an over-all view of the situation, impose sentence which they consider to be an appropriate one. Aggravating factors cannot be ignored and similarly mitigating circumstances have also to be taken into consideration.

In our opinion, the measure of punishment in a given case must depend upon the atrocity of the crime; the conduct of the criminal and the defenceless and unprotected state of the victim. Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals. Justice demands that courts should impose

punishment fitting to the crime so that the courts reflect public abhorrence of the crime. The courts must not only keep in view the rights of the criminal but also the rights of the victim of crime and the society at large while considering imposition of appropriate punishment.

12. In the case of ***Bachan Singh v. State of Punjab, (1980) 2 SCC 684, (1992) 3 SCC 700,*** the Court established the principle that the punishment for a crime should be proportionate to the crime committed and the offender's circumstances. This decision highlighted the need for the sentencing Judge to consider the nature of the crime, the motive, the method of commission, and the offender's previous conduct, as well as the nature of the society and the public conscience. The Court emphasized that the sentence should not be excessively harsh or unduly lenient.

13. Similarly, in ***State of Maharashtra v. Sukhdev Singh (1992) 3 SCC 700***, the court held that while the law prescribes a maximum sentence for a particular offence, it does not mandate that sentence in every case. The court emphasized that the sentencing Judge must exercise discretion in determining the appropriate sentence based on the facts and circumstances of the case, including aggravating, and mitigating factors.

14. Overall, these cases emphasize the importance of considering the individual circumstances of each case when determining an appropriate sentence. Sentencing Judges must take into account the nature of the crime, the offender's circumstances, aggravating and mitigating factors, and the principles of proportionality and fairness.

15. In ***Ravji v. State of Rajasthan (1996 (2) SCC 175)***. It has been held that:

It is the nature and gravity of the crime but not the criminal, which are germane for consideration of appropriate punishment in a criminal trial. The Court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and victim belong. The punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should "respond to the society's cry for justice against the criminal". If for extremely heinous crime of murder perpetrated in a very brutal manner without any provocation, most deterrent punishment is not given, the case of deterrent punishment will lose its relevance.

16. In ***Mahesh v. State of M.P.*** ***(1987) 2 SCR 710),*** this Court while refusing to reduce the death sentence observed thus:

> *"It will be a mockery of justice to permit the accused to escape the extreme penalty of law when faced with such evidence and such cruel acts. To give the lesser punishment for the accused would be to render the justice system of the country suspect. The common man will lose faith in courts. In such cases, he understands and appreciates the language of deterrence more than the reformative jargon."*

17. Therefore, undue sympathy, resulting in the imposition of an inadequate sentence, would cause greater harm to the justice system by undermining public confidence in the efficacy of the law, and society cannot long endure under such serious threats. It is, therefore, the duty of every court to impose a proper sentence, having regard to the nature of the offence, the manner in which it was executed or committed, and other relevant considerations.

18. In ***Ahmed Hussein Vali Mohammed Saiyed v. State of Gujarat, (2009) 7 SCC 254:*** it was held:

> *The object of awarding appropriate sentence should be to protect the society and to deter the criminal from achieving the avowed object to (sic break the) law by imposing appropriate sentence. It is expected that the courts would operate the sentencing system so as to impose such sentence which reflects the conscience of the society and the sentencing process has to be stern where it should be. Any liberal attitude by imposing meagre sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be result wise counterproductive in the long run and against the interest of society which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system.*
>
> *Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime. The court must not only keep in view the rights of the victim of the crime but also the society at large while considering the imposition of appropriate punishment. The court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which both the criminal and the victim belong."*

19. As discussed above, every court has a duty to impose a sentence that is proportionate to the nature of the offence and the manner in which it was executed or committed. In doing so, courts must take into account all relevant facts and circumstances bearing on the question of sentence and ensure that the punishment imposed is commensurate with the gravity of the offence.

20. According to the autopsy report, there are four ante mortem injuries, which are as follows:

    a. *Stab injury, sutured, partially healed, 3.5cm obliquely placed on right upper abdomen. The lower end of the injury was situated 7cm away from midline and 5cm above the umbilicus. It has penetrated through subcutaneous tissues, peritoneum, liver, gall bladder, duodenum, and pancrease. It was directed medically downwards and backwards. The depth of the injury was 15cm.*

    b. *Cut injury, sutured, partially healed, 4cm, obliquely placed on right lower chest. The lower end of the injury was situated 15cm below and 5cm away from nipple. It has penetrated only through subcutaneous tissue and muscle layer of the chest wall.*

    c. *Cut injury. V shaped, suture, partially healed, 3.5cm placed on back of the left elbow joint. It has penetrated only through subcutaneous tissue.*

    d. *Cut injury. Sutured, partially healed, 4.3cm, obliquely placed on back of the midline of the trunk. The lower end of the injury was situated 26cm below the nape of the neck. It has penetrated through subcutaneous tissue, muscle layers and made cut injury in 2nd lumber vertebrae.*

21. The Judicial Medical Officer (JMO), in his testimony, clearly stated that injury No. 1 was sufficient to cause death in the ordinary course of nature. The nature of the injuries described in the postmortem report speaks volumes about the severity and vindictiveness with which the appellant attacked the hapless victim.

22. The lay witnesses testified that the knife remained embedded in the deceased when she was taken to the hospital. This was corroborated by the JMO who noted from the deceased's bed head ticket that the stabbed knife was removed and handed over for medico-legal purposes, underscoring the gravity of the force used by the appellant. It is also on record that the deceased attempted to board a bus, but the appellant restrained her and stabbed her.

23. After the deceased was stabbed in the abdomen, she bent over. The appellant then stabbed her a second time in the back, a fact that was confirmed by medical evidence.

24. This offense was not only inhuman and barbaric but also a ruthless crime committed in broad daylight. It took the life of a young, unarmed, and helpless schoolgirl. The autopsy report details the injuries the appellant inflicted upon the deceased.

25. It's important to stress that the deceased suffered her fatal injuries while speaking with the appellant, with whom she was having an affair. There's no evidence that the deceased was ever aggressive toward the appellant on that day. The appellant's horrifying cruelty toward the teenage schoolgirl is especially shocking when considering the eyewitness accounts of the tragic incident.

26. The only mitigating factors in this case are the appellant's tender age, being 21 years at the time of the offence, and the absence of any previous convictions. The court must carefully balance these considerations, taking into account the victim's suffering as well as the broader message the sentence conveys to the society.

27. The Court would fail in its duty if it did not give an appropriate punishment for a crime committed against both the individual victim and the society. It is my view, that the punishment for a crime should be based on how severe it was, the criminal's actions, and the victim's vulnerability. When courts impose an appropriate punishment, they are responding to society's demand for justice. The punishment should fit the crime, showing the public's disgust with the act. Courts must consider the rights of the victim and society, not just the criminal, when deciding on a punishment. At the same time, court shall not lose the sight of its duty to punish crimes appropriately, as they are committed against society as a whole, not just the individual victim.

28. I may also observe that the practice of imposing suspended sentences on first offenders risks setting a bad precedent and it would encourage individuals to commit serious offences once in their lifetime under the mistaken belief that, as first offenders, they would escape custodial imprisonment. The inevitable consequence would be a society increasingly permeated with crime. Courts must therefore be vigilant to guard against such a phenomenon, which is almost certain to occur if suspended terms are routinely granted to first offenders.

29. Therefore, in my considered view, the Court ought not to impose suspended sentences on first offenders, save where compelling mitigating circumstances exist, such as ignorance, negligence, or a failure to appreciate the gravity of the offence by reason of tender age, which would justify and inspire confidence in the Court to exercise leniency. In this case, the aggravating factors clearly outweigh the mitigating ones.

30. In the instant case, the appellant was serving in the Sri Lanka Army at the time of committing the offence. Accordingly, having undergone military training, he was expected to conduct himself with greater responsibility and discipline than an ordinary person.

31. Having considered the foregoing, I find no justification to extend leniency towards the appellant, particularly in view of the brutality exhibited in the commission of the crime.

32. The appellant was indeed fortunate that the learned High Court Judge proceeded under section 297 of the Penal Code, despite overwhelming evidence indicating a premeditated attack.

33. Therefore, I see no mitigating factors in the present case in favor of the appellant and hence, see no reasons to disagree with the appropriateness of the sentence imposed by the learned High Court Judge.

34. Accordingly, I dismiss the appeal. The prison term shall run from the date of conviction, namely 31 July 2024.

Judge of the Court of Appeal

P. Kumararatnam, J

I agree,

Judge of the Court of Appeal