

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

**In the matter of an Appeal against
an order of the High Court under
Section 331 of the Code of Criminal
Procedure Act No 15 of 1979**

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

CA HCC 234/2024

High Court of Tangalle
Case No. THC/19/008

Vs.

Complainant

Rajapakshe Pradeep Kumara

Accused

AND NOW BETWEEN

Rajapakshe Pradeep Kumara

Accused-Appellants

Vs,

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

Complainant-Respondent

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

Counsel: Ershan Ariyaratnam for the Appellant

Anoopa de Silva, D.S.G for the Hon. Attorney General

Argued on: 05.02.2026

Judgment on: 11.03.2026

Judgment

Amal Ranaraja. J,

1. The accused-appellant (hereinafter referred to as the 'appellant') has been indicted at the High Court of Tangalle in High Court Case No. THC-19-2008.

The charge in the indictment is as follows,

- i. On or around the 17th of March 2008, within the jurisdiction of this Court, in *Beliatte*, you have caused the death of *Ranasinghe Aarachchige Dinusha Lakmali*, thereby committing an offence of murder punishable under Section 296 of the Penal Code of Sri Lanka.
2. At the conclusion of the trial the learned High Court judge has convicted the appellant of the charge and sentenced him to death.

The appellant aggrieved by the conviction, disputed judgement, and the sentencing order, have preferred the instant appeal to this court.

Case of the Prosecution

3. The deceased, daughter of PW01, had resided with her aunt PW03 in *Beliatte, Hambantota* district, prior to her marriage to the appellant. During this time, she has become acquainted with the appellant and they have subsequently eloped. Upon being apprised of the incident, the deceased's elders have arranged her marriage to the appellant. The couple has settled in the *Beliatte* area.
4. Following their marriage, the appellant has allegedly subjected the deceased to physical abuse. On at least two occasions, the deceased had sought refuge at PW03's home, presenting with bleeding wounds, but has been subsequently taken away by the appellant.
5. On or about March 18th, 2006, PW01 has received a call from the appellant who has claimed that a coconut has struck the deceased's head requiring her hospitalisation. PW01, along with other family members have immediately travelled to the *Karapitiya* hospital in Galle, where they have found the deceased undergoing treatment in the intensive care unit.
6. Harboursing suspicions regarding the appellant's role in the deceased's injuries, PW01 has filed a formal complaint with the police.

7. The deceased had passed away while receiving medical treatment. Dr. S.G.H. Ambepitiya, an Assistant Judicial Medical Officer (PW09), has conducted the postmortem examination and opined that the cause of death was intramural cerebral haemorrhage following an assault by a heavy blunt weapon. The post-mortem report has been presented as evidence and marked *ප්‍ර 03*.

Case of the Appellant

8. The appellant has asserted that he did not physically assault the deceased.
9. The learned counsel for the appellant urged the following ground of appeal when the matter was taken up for argument,
 - i. The learned High Court Judge has failed to address his judicial mind to the element of *mens rea* on the part of the appellant as to whether he entertained a murderous intention as opposed to knowledge.
10. The learned counsel of the appellant contended that the appellant is an impulsive person i.e. often acts on immediate, intense emotions, such as rage, jealousy or fear rather than through calculated planning, hence, has not entertained a murderous intention as opposed to knowledge.
11. While the appellant's counsel has contended as such, this has not been the appellant's narrative during the trial. It is crucial to note that the appellant has merely denied causing injuries to the deceased. It is a fundamental principle of appellate review that matters not raised or established at the trial court level cannot be argued or contested on appeal except where they pertain to a pure point of law.
12. In the decided case of *Candappa Nee Bastian vs Ponnambalampillai [1993] 1 SLR 184*, G.P.S. De Silva CJ, has stated,

“A party cannot be permitted to present in appeal a case different from that presented in the trial court where matters of fact are involved which were not in issue at the trial such case not being one which raises a pure question of law.”
13. In his post-mortem examination Dr. Ambepitiya (PW09) has identified a total of eight injuries on the deceased's body. These documented injuries primarily consist of contusions and abrasions. Of particular significance has been the specific contusion located on the skull directly above the right ear of the deceased. Dr. Ambepitiya has classified this injury together with the corresponding internal injury as sufficient in

the ordinary course of nature, to cause the death of the deceased, indicating it was the direct cause of death. Furthermore, the doctor has concluded in his opinion, that this head injury has been inflicted by an assault involving a heavy blunt weapon.

14. The appellant and the deceased, who are husband and wife had been residing together. However, their matrimonial home has been consistently marked by discord. On prior occasions, the deceased had sought refuge at the residence of PW03, only to be subsequently persuaded or compelled by the appellant to return home.
15. Significantly, it has been the appellant who had first notified PW01, the deceased's mother, that the deceased had been hospitalised after sustaining injuries. Upon PW01 and other family members visiting the deceased at the hospital, the appellant has been present for a brief period. While he has denied having inflicted the injuries, he has subsequently disappeared from the hospital premises shortly thereafter.
16. Furthermore, the appellant has conspicuously failed to attend the deceased's funeral and has been later apprehended by the authorities while hiding suggesting an attempt to evade justice.
17. The learned High Court Judge has rightly drawn significant attention to these aforementioned incriminating circumstances, recognising the cumulative weight as circumstantial evidence, pointing strongly towards the appellant's involvement in the deceased's injuries and subsequent death.
18. The appellant, in a dock statement, has denied the allegations against him.
19. At the conclusion of the evidence led by the parties, the learned High Court Judge has considered their narratives holistically. Thereafter decided to accept the prosecution's narrative and reject that of the appellant. The learned High Court judge has provided comprehensive and well-founded reasoning for this determination.
20. In the case of *King vs. Thajudeen* 6 NLR 16, Bonser CJ, has stated,

“...when people cause injuries to a man, their intent must be judged by the result of their action. They must be deemed in law to have intended what they did.”
21. In those circumstances, I am not inclined to interfere with the conviction, disputed judgement together with the sentencing order and proceed to affirm the same.

22. I dismiss the appeal and make no order regarding costs.

Appeal dismissed.

23. The Registrar of this Court is directed to send a copy of this judgement to the High Court of Tangalle for compliance.

Judge of the Court of Appeal

B. Sasi Mahendran, J.

Judge of the Court of Appeal