

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST

REPUBLIC OF SRI LANKA

An Appeal filed in terms of Section 331 of the Code of Criminal Procedure Act No. 15 of 1979 read with Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Hon. Attorney General

Complainant

Vs

Court of Appeal Case No:

CA/HCC/0237/2010

Degoda Piyadasa Samarawickrama

Accused

High Court of Galle Case No:

HC 2734/2006

AND NOW BETWEEN

Degoda Piyadasa Samarawickrama

Accused – Appellant

Vs

Attorney General

Complainant - Respondent

Before : **P. Kumararatnam, J.**

Pradeep Hettiarachchi, J.

Counsel : Saliya Pieris P.C. with Pasindu Thilakaratne for the Accused-Appellant.
Azard Navavi, DSG for the State.

Argued on : 25.11.2025

Decided on : 06.03.2026

Pradeep Hettiarachchi, J

Judgment

1. In this case the Accused – Appellant (hereinafter referred to as the appellant) was indicted before the High Court of Galle on 3 counts namely;
 - a. That on or about 17.02.1998 at Pituwalahena committing trespass by night having intention to cause hurt on Ganegge Ceroline and Deegodagamage Dinesh Prabhask Samarawickrama which is an offence punishable under section 444 of the Penal Code.
 - b. In the same transaction committing the murder of Ganegge Caroline which is an offence punishable under section 296 of the Penal Code.
 - c. In the same transaction committed the murder of Deegodagamage Dinesh Prabhask Samarawickrama which is an offence punishable under section 296 of the Penal Code.
2. Since the appellant elected to be tried before the High Court Judge without a jury, the trial was conducted by the High Court Judge of Galle. Fourteen witnesses testified on behalf of the prosecution. After the conclusion of the prosecution case, the appellant made a dock statement, and the appellant's wife, Halhotage Padma, also testified on behalf of the defence.
3. At the conclusion of the trial, the learned High Court Judge found the appellant guilty of all three charges and accordingly convicted him and imposed the following sentences:
 - a. For the 1st count 5 years rigorous imprisonment with a fine of Rs.5000/- carried a default sentence of 3 months.
 - b. The Appellant was sentence to death for the 2nd and 3rd count.
4. Being aggrieved by the said conviction and sentence, the Appellant has preferred this appeal. The prosecution case against the Appellant rests entirely on circumstantial evidence, there being no eyewitnesses to the crime. Accordingly, learned counsel for

the Appellant contended that the circumstantial evidence adduced at trial is insufficient to establish the guilt of the Appellant beyond reasonable doubt.

5. It was further submitted that the learned High Court Judge failed to adequately consider the defence evidence and that, in circumstances where the only incriminating material against the Appellant was a fingerprint found on a bottle, it would be unsafe to act solely upon such fingerprint evidence, particularly in light of the defence explanation.

Background to the appeal:

6. In this case, the deceased were the former wife and the child of the Appellant. At the time of the alleged incident, the Appellant was living with his present wife and had two children from that marriage.
7. The investigation commenced when neighbours of the deceased alerted one of the brothers of the first deceased, Caroline, that the house of the deceased remained closed and that bloodstains had been observed on the door frame and outside the premises. Thereafter, a complaint was lodged at the Yakkalamulla Police Station. The Police subsequently arrived at the residence of the deceased and gained entry through the back door, which was found to be unlocked.
8. Upon entering the house, the Police observed several bloodstains and found a bottle of alcohol together with a tumbler placed on a table. Thereafter, the body of the second deceased was discovered dumped on a land situated in close proximity to the Appellant's house, and the body of the first deceased was subsequently recovered from a pit prepared for coconut cultivation.
9. The bottle and the tumbler recovered from the house of the deceased were later forwarded to the Government Analyst's Department, where fingerprints detected on the bottle were identified as those of the Appellant.
10. The first witness to testify for the prosecution was Ganege Charlis, the brother of the deceased, Caroline. According to his evidence, his sister Caroline was married to the

appellant and had two children. The witness was residing in close proximity to the deceased's house. In 1998, the appellant had deserted the deceased Caroline after developing an intimate relationship with a woman who had been employed by the deceased in his tea cultivation.

11. After the appellant deserted the deceased, a maintenance action was instituted in court, and the appellant was ordered to pay maintenance to Caroline and the second deceased, who was residing with her.
12. When the witness was informed that Caroline had not been seen, he went to her house with one of his brothers and found that both the front and rear doors were closed. Thereafter, they went around the house and observed blood near the door frame. Subsequently, they proceeded to the Yakkalamulla Police Station, made a complaint, and returned to the house with the police. Upon their return, they entered the house through the rear door and observed bloodstains inside the room as well as in the compound.
13. As stated earlier, the only incriminating circumstance on which the High Court based the conviction of the appellant was the presence of his fingerprints on a bottle recovered from the residence of the deceased.
14. The appellant's contention is that the bottle on which his fingerprints were allegedly detected was not present at the scene initially. According to him, subsequent to his arrest, the police required him to place his fingerprints on a bottle, which was thereafter planted at the location. In these circumstances, it becomes of paramount importance to carefully examine the prosecution evidence relating to this aspect and to determine whether the recovery of the bottle from the house where the deceased was living, its seizure, the detection of fingerprints thereon, the comparison of those fingerprints with the appellant's known fingerprints, and the opinion expressed by the fingerprint expert were all proved to the satisfaction of court.
15. In other words, the court is required to assess and evaluate the integrity of the evidence relating to the alleged recovery of the fingerprints from the scene of the crime and their subsequent comparison with the appellant's fingerprints. In this regard, the

reliability and credibility of the witnesses involved in the detection, preservation, and identification of the fingerprints assume cardinal importance.

16. At the hearing of this appeal, learned counsel for the appellant drew attention to several contradictions and inconsistencies discernible in the evidence of the prosecution witnesses and contended that, in view of those discrepancies, it would be unsafe to convict the appellant solely on the basis of the fingerprint evidence.
17. Therefore, it becomes necessary to examine whether the said discrepancies are of such a nature as to render the prosecution evidence unreliable and untrustworthy, thereby making the conviction unsafe.
18. PW12 Sumith Jayasingha was attached to the Yakkalamulla Police during the period relevant to this incident. Upon receiving the information, he proceeded to the scene along with a team of police officers. He entered the house through the rear door and observed blood stains throughout the premises. According to his observations, there was a table in the dining area, on which a glass bottle emitting the smell of liquor was found. The witness identified the said bottle and tumbler, which were marked as P1 and P2 respectively. Thereafter, the witness instructed PC 13199 Chandrasiri to guard the scene.
19. It is evident that certain items were recovered in terms of Section 27 of the Evidence Ordinance. However, in the absence of any evidence linking those items to the commission of the offence, I find that they bear no relevance to the determination of the present appeal.
20. PC 58859 Pathmasiri testified as PW9. According to his evidence, he proceeded to the scene on the instructions of the Officer-in-Charge of the police station. Upon his arrival, several police officers were already present at the location. He was instructed by the OIC to guard the scene and to prevent any person from entering, as fingerprint examination was to be conducted.
21. He further testified that there was a table inside a room, and a glass bottle was seen placed on that table. The witness remained at the scene until the officers from the Fingerprint Registrar's Department arrived. During that period, PC 18593 Hearth also

visited the scene. Subsequently, on 20.02.1998, PC 24045 Mahinda arrived and photographed the bottle.

22. PW10, Sub Inspector Mallawarachchige Chandrasiri, testified that he recorded the statements of Kudagamage Nandani and Ganegge Charlis. On 21st February 1998, he recorded a statement from Kaluthotage Pathma, the paramour of the appellant, and on 22nd February 1998, he recorded the statement of the appellant. The witness further stated that he observed the bottle placed on a table in the kitchen. After the Fingerprint Experts completed their examination, the bottle was handed over to him.
23. PW7, PS158932 Nishantha Herath, had undergone training in fingerprint detection and possessed 13 years of experience in the relevant field. He explained the procedure followed in detecting fingerprints on a given surface. On 19.02.1998, he arrived at the Yakkalamulla Police Station upon receiving a telephone call on 18.02.1998 and thereafter proceeded to the scene of the incident. When he arrived, the scene was being guarded by PS 11358 Padmasiri. The witness observed a brown-coloured cup and a bottle placed on a table and identified the bottle marked as P1. He detected three fingerprints on the bottle, out of which two impressions were sufficiently clear for comparison purposes. It is noteworthy that neither the procedure followed by the witness in tracing the fingerprints nor his expertise in the subject was challenged by the defence.
24. The evidentiary value of the fingerprint evidence adduced through PW7 assumes considerable significance in the circumstances of this case. It is well established that fingerprint identification, when properly obtained and scientifically compared, constitutes reliable and highly probative evidence. In this regard, following authorities are of much relevance.
25. In *The Queen v. Wijehamy* 62 NLR 425 the Court of Appeal held that: “Under Section 45 of the Evidence Ordinance it is for the court to form an opinion as to the identity of finger and palm impressions, assisted by the opinion of an expert”.
26. In the *King v. Jayasena [1933] 2 CLW* the court held that: “A conviction can be based on finger print evidence alone, in the absence of a satisfactory explanation from the accused”

27. In *King v Logus* 34 NLR 255 the court held that: “That, in the absence of any explanation by the accused as to how his finger prints came to appear on the glass plane, the Court was justified in concluding that the accused was one of the burglars;”
28. In *Singo Appu v The King* 46 NLR 49 the court held that: Where on an indictment for housebreaking and theft, the only evidence against the accused was that of a foot-print which was found on a table at the scene of the offence and which was identified as that of the accused by an expert who gave adequate reasons for his opinion. Held, that the Court could convict the accused on the evidence of the foot-print though it was the sole ground of identification.
29. In the present case, the testimony of PW7 clearly demonstrates that the scene had been secured prior to his arrival, thereby minimizing the possibility of contamination. He followed the accepted procedure in detecting and preserving the fingerprints found on the bottle marked P1, and two impressions were found to be sufficiently clear for comparison. More importantly, the defence neither challenged the competence or expertise of PW7 nor suggested any irregularity in the procedure adopted by him. In the absence of any material to discredit the process of detection or comparison, there exists no reasonable basis to doubt the authenticity or reliability of the fingerprint evidence. Accordingly, the learned trial Judge was justified in placing reliance on this item of scientific evidence in evaluating the involvement of the appellant.
30. PW8, Mahinda Hettiarachchi, had received specialized training in the photographing of fingerprints. Upon receiving a message on 19.02.1998, he reported to the Yakkalamulla Police Station on 20.02.1998 and, on the same day, proceeded to the scene accompanied by officers attached to the Yakkalamulla Police.
31. According to PW8, the bottle was produced to him by PS 11358 Padmasiri. The witness photographed the bottle, as well as the fingerprints detected thereon. He further magnified and photographed the fingerprint impressions obtained from the appellant for comparison purposes.
32. When the evidence of PW7 and PW8 is considered cumulatively, it establishes an unbroken and methodical process in relation to the detection, preservation, and documentation of the fingerprint evidence. PW7, a trained fingerprint officer with

considerable experience, detected three fingerprint impressions on the bottle marked P1, two of which were sufficiently clear for comparison. The scene had been secured prior to his examination, thereby reducing the likelihood of contamination. PW8, who possessed specialized training in fingerprint photography, subsequently photographed the bottle and the detected impressions, and also magnified and photographed the specimen fingerprints of the appellant for comparative purposes.

33. Significantly, the defence did not challenge either the expertise of these witnesses or the procedure adopted by them. In the absence of any suggestion of tampering, irregularity, or contamination, the fingerprint evidence stands as reliable scientific evidence. The learned trial Judge was therefore entitled to place considerable weight on this evidence when evaluating the involvement of the appellant in the commission of the offence.
34. PW14, K.G. Danister, testified that he obtained the fingerprint impressions of the appellant and handed them over to the Officer-in-Charge. PW12, K.D.C. Chandana Priyantha Perera, also gave evidence. He is an expert in fingerprint comparison. After comparing the fingerprint impressions detected on the bottle with the specimen fingerprints of the appellant, he prepared a report marked as "P28." The said report was admitted by both parties under Section 420 of the Code of Criminal Procedure Act.
35. When the evidence of PW7, PW8, PW14, and PW12 is considered in its entirety, it reveals a complete and scientifically reliable chain in relation to the fingerprint evidence. PW7 detected and preserved the fingerprint impressions found on the bottle marked P1. PW8 photographed and magnified the detected impressions, as well as the specimen fingerprints of the appellant. PW14 obtained the specimen fingerprints of the appellant in accordance with accepted procedure and handed them over to the Officer-in-Charge. PW12, an expert in fingerprint comparison, compared the latent prints found on the bottle with the specimen prints of the appellant and prepared his report, which was admitted by both parties under Section 420 of the Code of Criminal Procedure Act.
36. Notably, the defence did not challenge the expertise of the officers involved, the procedure adopted in obtaining and preserving the prints, or the conclusions reached in

the comparison report. In these circumstances, the fingerprint evidence stands as cogent and compelling scientific evidence directly linking the appellant to the bottle recovered from the scene. The learned trial Judge was therefore justified in placing substantial reliance on this evidence in determining the involvement of the appellant in the commission of the offence.

37. It was contended on behalf of the appellant that the contradictory evidence regarding the location of the table on which the bottle was allegedly found undermines the credibility of the prosecution case and renders the conviction, based solely on fingerprint evidence unsafe. According to PW7, the table was placed in the dining area, whereas PW10 stated that it was in the kitchen.
38. Having regard to the layout of the house in which the deceased resided, I am not inclined to treat this discrepancy as a material contradiction. In many village households, the dining area is either situated within the kitchen itself or immediately adjacent to it. Thus, the variation in description appears to be one of semantics rather than substance and does not affect the central issue in the case, nor does it diminish the probative value of the fingerprint evidence relied upon by the prosecution. In that context, the difference in description does not, in my view, affect the substance of the prosecution case.
39. The appellant also placed considerable reliance on the alleged inconsistencies in the evidence of PW7 Herath and PW12 Prasad Ranasingha concerning their respective observations of the bottle. According to PW12, he observed a brown-colored cup together with the bottle placed on the table. However, PW7's evidence does not disclose the presence of any such brown-colored cup on the table.
40. It is important to emphasize that the fingerprints relied upon by the prosecution were detected on the bottle and not on the cup. The evidence of the witnesses in relation to the bottle itself was consistent and free from any material contradiction. In the circumstances, whether there was a brown-colored cup on the table or not does not, in my view, affect the credibility of the prosecution evidence or undermine the evidentiary value of the fingerprint evidence.

41. Furthermore, it was contended that the evidence of PW9 was unreliable, as it was practically impossible for him to have guarded the scene continuously for two days without leaving even for personal necessities. On that basis, it was argued that the possibility of outsiders gaining access to the scene could not be completely ruled out, thereby affecting the probative value of the fingerprint evidence.
42. It is to be noted, however, that the fingerprints detected at the scene were those of the appellant. There was no evidence to suggest that the appellant had visited the scene after the crime was reported, nor was there any evidence that he was in the habit of visiting the deceased's house. In these circumstances, I find no merit in the contention advanced on behalf of the appellant.
43. It was further contended that, given that the appellant was in police custody, the possibility of fabrication of evidence to implicate him could not be entirely ruled out.
44. However, in his dock statement, the appellant himself stated that while he was in police custody he was neither threatened nor induced, and that he had been provided with necessities and meals. He further asserted that the bottle produced by the prosecution was the very bottle used by him during his period of custody.
45. According to the evidence of PW12, upon receiving the relevant information, he visited the deceased's house on 18.02.1998 and observed the bottle placed on the table inside the house. The appellant was arrested subsequently, on 22.02.1998. Significantly, the evidence of PW12 regarding the arrest of the appellant was not challenged by the defence.
46. Hence, any possibility of the bottle having been planted subsequent to the arrest of the appellant can safely be ruled out, having regard to the chronological sequence of events that culminated in his arrest. The learned trial Judge has carefully analyzed these events in considerable detail and arrived at her conclusion regarding the detection of the appellant's fingerprints on the bottle.
47. In these circumstances, the appellant's assertion in his dock statement, that the bottle allegedly given to him for use while in police custody was later introduced at the scene, is manifestly untenable. That contention is wholly inconsistent with the

chronology established by the evidence and does not even raise a reasonable doubt as to the prosecution's case regarding the detection of the appellant's fingerprints on the bottle.

48. It must be emphasized that the identification of fingerprints has developed into an exact science, and where the report discloses that the opinion is based on relevant observations and established methodology, such opinion may safely be relied upon. In the present case, I discern no substantial infirmity in the evidence that would justify rejecting the fingerprint evidence. The explanation offered by the appellant regarding the presence of his fingerprints is wholly unsatisfactory and cannot be accepted.
49. It is also noteworthy that no valuable items were reported missing from the deceased's house. Hence, robbery cannot be inferred as the motive. The evidence suggests that the sole object of the assailant was to kill the deceased. There was, in fact, evidence of a dispute between the appellant and the deceased concerning the payment of maintenance. Further, the evidence establishes that the intruder had entered the room of Deceased No. 1 through the roof and, after committing the killings, exited through the rear door, circumstances which indicate that the intruder was well acquainted with the layout of the house and the room of Deceased No. 1.
50. For the reasons set out above, and upon a careful consideration of the evidence and the applicable principles of law, I find no merit in the grounds of appeal advanced on behalf of the appellant. Hence, I see no basis to interfere with the findings of the learned trial Judge.
51. Accordingly, the conviction and sentence imposed by the learned trial Judge are hereby affirmed, and the appeal is dismissed.

Judge of the Court of Appeal

P. Kumararatnam,J

I agree,

Judge of the Court of Appeal