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

1. Kande Kalasi Udaya Kumara alias Upali
2. Naiduwa Handi Jagath Indula
3. Naiduwa Handi Thusith Indula alias Dias

Accused

Court of Appeal Case No:
CA/HCC/0229-2018

High Court of Galle Case No:
HC-3147-2018

And now between

Kande Kalasi Udaya Kumara alias Upali

Accused-Appellant

Vs

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

Complainant – Respondent

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

Counsel : Darshana Kuruppu with Dineru Bandara, Anjana Adikaramge and Rajitha Kulatunga for the Accused - Appellant.
Wasantha Perera DSG for the Complainant-Respondents.

Argued on : 16.10.2025

Decided on : 12.12.2025

Pradeep Hettiarachchi, J

Judgment

1. The accused-appellant (hereinafter referred to as "the appellant") was indicted, along with two other accused, for the murder of Godawatthage Lalith Susantha. They were charged under Section 296 read together with Section 32 of the Penal Code.

2. The trial commenced before the learned Judge of the High Court without a jury. At the trial, six witnesses testified on behalf of the prosecution. All three accused gave dock statements, and the Deputy Registrar of the High Court of Galle, as well as the Registrar of the Magistrate's Court of Galle, were called by the defense to testify.

3. At the conclusion of the trial, the learned High Court Judge found the 1st accused (the appellant in the present appeal) guilty of the charge, while acquitting the 2nd and 3rd accused. Accordingly, the appellant was sentenced to death by the learned High Court Judge. It is against this conviction and sentence that the appellant has preferred the present appeal.

4. At the commencement of the hearing of the appeal, the counsel for the appellant tendered written grounds of appeal. Although several grounds were enumerated therein, many are interrelated and may be summarized as follows:

    1. The judgment of the learned High Court Judge is contrary to section 283 of the Code of Criminal Procedure Act;
    2. The learned trial Judge has first come to the findings that the PW1 sole eye witness is a credible witness before considering the other evidence of the prosecution and the defense witnesses;
    3. The learned trial Judge has failed to consider that the Government Analyst Report on ballistic evidence marked as X creates a reasonable doubt on the prosecution case;
    4. The learned High Court Judge has failed to consider that the evidence of the sole eye witness contradicts the Government Analyst Report, her evidence is improbable and not credible as there exist material contradictions and omissions. Her evidence contradicts medical evidence and also, she is an interested witness; and,
    5. The learned trial Judge has failed to call the defense of the accused-appellant as per Section 200(1) of the Code of Criminal Procedure Code.

5. The sole eyewitness, PW1, is the mother of the deceased. According to her testimony, on the day of the incident she had gone to pick flowers at a land known as Pattanbugodawatta. The deceased had also gone there to play *elle*. While PW1 was seated on a log, she observed the deceased approaching the land from a nearby paddy field in the company of a friend named Ajith. At that moment, the appellant approached the deceased from behind, followed by the second and third accused. Suddenly, the appellant fired a shot at the deceased, causing him to fall to the ground. Thereafter, the appellant fired another shot, upon which the deceased's friend fled. PW1 then fell unconscious. On the same day, around 6.00 p.m., PW1 lodged a complaint with the Ratgama Police.

6. First, I shall consider the 2nd, 3rd, and 4th grounds of appeal together, as they are interrelated. These grounds primarily pertain to the assessment of the evidence, the alleged contradictions in the testimony of the prosecution witnesses, and the weight

given to the dock statements of the accused. It is necessary to examine whether the learned High Court Judge correctly evaluated the evidence in its entirety, giving due regard to any omissions or inconsistencies, and whether any such discrepancies are material enough to affect the safety of the conviction.

7. In doing so, I will also assess whether the learned trial Judge properly considered the defense evidence and the credibility of the witnesses called by the accused. It was emphasized on behalf of the appellant that the learned High Court Judge failed to consider the material omissions and contradictions in PW1's evidence which go to the root of the prosecution case. It was further contended that the Post-Mortem Report and the Government Analyst's Report contradict PW1's testimony, and therefore it is unsafe to base a conviction solely on her evidence.

8. The concept of contradiction in criminal jurisprudence cannot be confined within a rigid definition, as its significance necessarily varies from case to case. It is the duty of the Court to assess whether a particular contradiction is trivial, or whether it is sufficiently material to undermine the reliability of a witness's testimony. In undertaking this exercise, the Court must consider the contradictions in the broader context of the entire body of the witness's evidence and assess them holistically in order to arrive at a rational and just conclusion.

9. Therefore, contradictions which have no material effect on the veracity of the prosecution case should not be allowed to throw out an otherwise reliable prosecution case.

10. The following authorities have articulated the principles governing how courts should assess the presence of contradictions, omissions, and minor inconsistencies when evaluating evidence:

11. In ***The Attorney General v.Sandanam Pitchai Mary Theresa [2011] 2 SLR 292*** the court held that*:*

    "Whilst internal contradictions or discrepancies would ordinarily affect the trustworthiness of the witness statement, it is well established that the Court must exercise its judgment on the nature of the inconsistency or contradiction and whether they are true material to the facts in issue".

12. In the case of ***Mohamed Niyas Naufer and others v. Attorney General (Sc. 01/2006 decided on 08/12/2006),*** the Court observed that;

> *"when faced with contradictions in a witness's 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."*

13. While appreciating the evidence, the court has to take into consideration whether the contradictions/omissions had been of such magnitude that they may materially affect the trial. Minor contradictions, inconsistencies, embellishments or improvements on trivial matters without effecting the core of the prosecution case should not be made a ground to reject the evidence in its entirety. The Trial Court, after going through the entire evidence, must form an opinion about the credibility of the witnesses and the appellate Court in normal course would not be justified in reviewing the same again without justifiable reasons. (Vide: ***State Represented by Inspector of Police v. Saravanan & Anr., AIR 2009 SC 152).***

14. In ***State of Rajasthan v. Smt. Kalki & Anr., AIR 1981 SC 1390,*** while dealing with this issue, the Supreme Court observed as under:

> *"In the depositions of witnesses there are always normal discrepancies, however honest and truthful they may be. These discrepancies are due to normal errors of observation, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of the occurrence, and the like. Material discrepancies are those which are not normal, and not expected of a normal person."*

15. In exceptional cases where there are compelling circumstances, and the judgment under appeal is found to be perverse, the appellate court can interfere with the order of acquittal. The findings of fact recorded by a court can be held to be perverse if the findings have been arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant/inadmissible material. A finding may also be said to be perverse if it is `against the weight of evidence', or if the finding so outrageously defies logic as to suffer from the vice of irrationality. ***Balak Ram & Anr. v. State of U.P., AIR 1974 SC 2165;***

16. The instant case is required to be examined in light of the aforesaid legal principles. First, I shall consider whether there exist any material omissions or contradictions in the testimony of the sole eyewitness which go to the root of the case and may have escaped the attention of the learned trial Judge. I will also examine whether her evidence is inconsistent with the medical and ballistic evidence contained in the Post-Mortem Report and the Government Analyst's Report respectively, and whether such inconsistencies, if any, render her testimony untrustworthy.

17. As can be observed from the evidence of the eyewitness and the medical evidence, the murder had been committed by shooting, and the incident occurred in the year 2001. The trial before the High Court commenced only in 2013, that is, 12 years after the incident. Hence, it would be unreasonable to expect PW1 to recount the events with photographic accuracy. The presence of minor discrepancies, omissions, or contradictions attributable to the natural fading of memory over time is therefore to be expected in her testimony.

18. The defence marked eight contradictions during the cross-examination of PW1. The contradictions marked as D1 to D4 pertain to previous cases pending against the deceased and therefore do not go to the root of the present case. In other words, none of these contradictions undermine the credibility of PW1's evidence regarding the events that occurred on the day of the incident.

19. Contradiction D5 concerns whether the deceased was already present when PW1 went to the land to pick flowers, or whether he arrived while PW1 was sitting on a log. D6 relates to whether the deceased was talking to Ajith and Paul at the time he was shot. D7 concerns whether PW1 was picking flowers or sitting on a log at the time of the shooting. D8 challenges the number of shots fired at the deceased.

20. A careful consideration of these contradictions reveals that they pertain only to peripheral or collateral aspects of PW1's testimony. None of them strike at the core of the prosecution's narrative regarding the identity of the assailant or the essential sequence of events leading to the shooting. Therefore, these contradictions cannot be regarded as material enough to discredit PW1's evidence or to create a reasonable doubt in the prosecution case.

21. It was also suggested to PW1 that she had never mentioned in her police statement that she was seated on a log watching the deceased play elle, and this was highlighted as an omission. However, for the reasons stated above, I am not inclined to treat this as a material omission that diminishes the credibility of PW1's evidence.

22. It is trite law that not every inconsistency or omission in the testimony of a witness is fatal to the prosecution. Courts have repeatedly emphasized that minor variations, particularly those attributable to the passage of time, do not erode the credibility of a witness unless they strike at the very core of the prosecution's version. Human recollection is inherently fallible, and with the lapse of many years, such as in the present case, some degree of discrepancy is not only natural but inevitable. What the court must determine is whether the alleged contradictions pertain to material particulars that fundamentally undermine the prosecution case, or whether they are merely trivial deviations that do not affect the reliability of the witness on the central narrative.

23. So far as the question of inconsistency between medical evidence and ocular evidence is concerned, the law is well settled that, unless the oral evidence available is totally irreconcilable with the medical evidence, the oral evidence would have primacy. In the event of contradictions between medical and ocular evidence, the ocular testimony of a witness will have greater evidentiary value vis-à-vis medical evidence and when medical evidence makes the oral testimony improbable, the same becomes a relevant factor in the process of evaluation of such evidence. It is only when the contradiction between the two is so extreme that the medical evidence completely rules out all possibilities of the ocular evidence being true at all, that the ocular evidence is liable to be disbelieved. (Vide: State of U.P. v. Hari, (2009) 13 SCC 542; and Bhajan Singh @ Harbhajan Singh & Ors. v. State of Haryana, (2011) 7 SCC 421).

24. It is a settled legal proposition that while appreciating the evidence of a witness, minor discrepancies on trivial matters, which do not affect the core of the prosecution's case, may not prompt the Court to reject the evidence in its entirety. "Irrelevant details which do not in any way corrode the credibility of a witness cannot be labelled as omissions or contradictions. Supreme Court of India. ***Bhajan Singh @ Harbhajan Singh & Ors vs State of Haryana on 2011 (7) SCC 421***

25. " Difference in some minor detail, which does not otherwise affect the core of the prosecution case, even if present, would not itself prompt the court to reject the evidence on minor variations and discrepancies. After exercising care and caution and sifting through the evidence to separate truth from untruth, exaggeration and improvements, the court comes to a conclusion as to whether the residuary evidence is sufficient to convict the accused. Thus, an undue importance should not be attached to omissions, contradictions and discrepancies which do not go to the heart of the matter and shake the basic version of the prosecution witness. As the mental capabilities of a human being cannot be expected to be attuned to absorb all the details, minor discrepancies are bound to occur in the statements of witnesses. [Vide: ***Vijay @ Chinee v. State of M.P., (2010) 8 SCC 191;***

26. A very great South African judge. Curlewis J. A., in the case of ***R. v. Hepworth, 1928 A.D. 265, 277*** once said:

> *"A criminal trial is not a game where one side is entitled to claim the benefit of any omission or mistake made by the other side. and a judge's position in a criminal trial is not merely that of an umpire to see that the rules of the game are observed by both sides. A judge is an administrator of justice, he is not merely a figure head, he has not only to direct and control the proceedings according to recognised rules of procedure but to see that justice is done."*

27. It is also significant to emphasize that this was not an incident that unfolded step by step, allowing the witness to observe each stage slowly and carefully. Therefore, it cannot reasonably be expected of a lay witness of PW1's calibre to precisely state the number of shots fired at the deceased based solely on the sound of gunfire, particularly given that the shots were fired in rapid succession.

28. In these circumstances, the inconsistency in PW1's evidence regarding the number of shots fired cannot, in my view, be regarded as a material contradiction that undermines the credibility of PW1.

29. Another argument advanced by the appellant is that the Government Analyst's Report, marked as 'X' by the defence, contradicts the evidence of PW1 and establishes that the empty cartridges recovered from the scene of the murder were not discharged

from the pistol marked as P3. It was therefore contended that this discrepancy strikes at the root of the prosecution case. It was further submitted that, since there is no evidence relating to the recovery of the pistol marked as P3, such evidence cannot, in any event, support the conviction.

30. It is correct that the prosecution has not adduced any evidence as to how the pistol was recovered or from whose possession it was recovered. In these circumstances, any evidence relating to this weapon becomes irrelevant to the determination of the appellant's culpability, particularly since there is no material to connect the recovery of the weapon to the appellant. Moreover, it is of considerable significance that the pistol marked P3 was not conclusively identified by PW1 as the firearm used in the commission of the offence. Her evidence was only that the weapon used was similar in appearance to P3. She stated as follows:

ප්‍ර	:	ඔබ සඳහන් කලා පළවෙනි චූදිතයා අතේ ඔබ පිස්තෝලයක් තියෙනවා දැක්කා කියලා ?
උ	:	ඔව්.
ප්‍ර	:	දැන් මා ඔබට පෙන්වනවා යම් නඩු භාණ්ඩයක්. ඒ ඔබ සඳහන් කරපු භාණ්ඩය සමඟ සැසඳෙනවද ?
උ	:	ඔව් මෙය තමයි.
ප්‍ර	:	ඔබ සඳහන් කලා කළු කොට ආයුධයක් කියලා ?
උ	:	ඔව්.
ප්‍ර	:	මෙවැනි ආයුධයක් ද තිබුණේ ?
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Vide pages 122 and 123 of the briefs

31. More importantly, PW1's evidence must be evaluated in the context of a lay witness, and not held to the standard expected of an expert. At the time of the shooting, she had only a few seconds to observe the events, and no real opportunity to examine the weapon. In other words, her observation of the weapon was made at a fleeting glance. Therefore, it would be unreasonable to expect PW1 to identify, with precision at the trial, the exact firearm used in the commission of the offence. What is material is that PW1 witnessed the shooting, and the medical evidence conclusively establishes that the deceased died as a result of gunshot injuries.

32. Accordingly, the pistol marked P3 has little relevance to the determination of this case. In the circumstances, the absence of evidence linking P3 to the shooting, as well as the minor discrepancy in PW1's identification of the weapon, does not, in my view, erode the credibility of her testimony nor diminish the strength of the prosecution case.

33. In the submissions filed on 01.07.2019, it was contended that the remanding of the witness, Palitha Silva (PW2), denied the appellant a fair trial. It appears that the prosecution had made an application to cross-examine PW2 in terms of Section 154 of the Evidence Ordinance, as he was evasive during his testimony. At the conclusion of his evidence, the learned Trial Judge ordered that PW2 be remanded.

34. The appellant placed considerable reliance on ***Ranasingha Arachchilage Edmand Perera v. Democratic Socialist Republic of Sri Lanka CA 267/06 and R.M.S. Priyantha Rathnayake v. Attorney-General CA 41/2012,*** where it was held that remanding a witness for not giving evidence in accordance with the statement made to the police amounts to a serious and substantial miscarriage of justice, as it may create a fearful impression among other witnesses that they too would be remanded if they failed to testify in conformity with their police statements.

35. However, in the present case, PW2 was remanded only after his testimony had been fully concluded. Moreover, no lay witness was called to testify thereafter. Therefore, even if the learned Trial Judge's decision to remand PW2 could be considered an abuse of power, it has neither instilled fear in any witness nor denied the appellant a fair trial.

36. Furthermore, PW2's evidence related only to the arrest of the 2nd and 3rd accused, and not to the arrest of the appellant. It is also noteworthy that the learned High Court Judge has not relied upon or taken into account the evidence of PW2. Thus, PW2's testimony has no bearing whatsoever on the conviction of the appellant.

37. It was also argued that the learned High Court Judge has failed to call the defense of the accused-appellant as per Section 200(1) of the Code of Criminal Procedure Act.

38. Apparently, at the conclusion of the prosecution case, the record does not indicate that the learned High Court Judge complied with section 200(1) of the Code of Criminal Procedure Act by explaining to all the accused their right to call evidence. However,

the proceedings dated 04.03.2015 show that defence counsel informed the Court of his intention to lead evidence on behalf of the defence and, accordingly, would file a list of witnesses. Thereafter, on 17.06.2015, permission was sought to file an amended list of witnesses, and it was further stated that the accused would also testify. On 10.07.2017, both the prosecution and the defence agreed to adopt the evidence recorded before the previous judges and proceed thereafter before the presiding Judge at that time. On 17.05.2018, all three accused made dock statements, and on 06.06.2018, two witnesses testified on behalf of the defence, after which the defence case was concluded.

39. It is true that the learned trial Judge has not expressly recorded compliance with Section 200(1) of the Code of Criminal Procedure Act. Nevertheless, all three accused were represented by an Attorney-at-Law throughout the trial. It is noteworthy that they were well aware of their right to call evidence and were, in fact, afforded the opportunity to do so. Had the trial Judge not formed the view that there were grounds to proceed with the trial after the close of the prosecution case, or had he failed to explain to the accused their right to lead evidence, there would have been no necessity for counsel to tender a list of witnesses intended to be called on behalf of the accused. More importantly, given the strength of the prosecution evidence, any reasonable trial Judge could not have done anything other than call for the defence.

40. In these circumstances, the mere absence of a recorded explanation under Section 200(1) cannot, by itself, be construed as causing prejudice to the accused. The conduct of the defence throughout the proceedings demonstrates that they were fully aware of the procedural stage of the trial and of their entitlement to adduce evidence.

41. The defence not only indicated their intention to call witnesses but also sought permission to amend the witness list and ultimately led two witnesses in addition to making dock statements. This active participation clearly indicates that the accused were not disadvantaged or misled as to their rights. Therefore, the omission to explicitly record compliance with Section 200(1), although undesirable, does not amount to a fatal irregularity that vitiates the trial.

42. What is discernible from the prosecution evidence and the proceedings of the High Court is that the learned trial Judge, while affording the accused the opportunity to present their defence, has failed to formally record the calling of the defence. In my

view, this omission, though procedurally undesirable, has not caused any prejudice to the accused nor resulted in any substantial injustice, particularly in light of the fact that they were duly represented by counsel throughout the trial. The record clearly reflects that the accused were aware of their right to lead evidence and that they exercised that right without hindrance. Hence, the mere failure to record the formal calling of the defence does not, in the circumstances of this case, amount to a fatal irregularity.

43. In the Code of Criminal Procedure Act No. 15 of 1979 and the Constitution of our country provide provisions to rectify any error, omission or irregularity in a judgment where such error, omission or irregularity which has not prejudiced the substantial right of the parties or occasioned a failure of justice. Section 436 of the Code of Criminal Procedure Act No: 15 of 1979 states as follows:

> *"Subject to the provisions hereinbefore contained any judgment passed by a court of competent jurisdiction shall not be reversed or altered on appeal or revision on account- (a) of any error, omission or irregularity in the complaint, summons, warrants, charge, judgment, summing up or other proceedings before or during trial or in any inquiry or other proceedings under this code; or (b) of the want of any sanction required by section 135,* ***Unless such error, omission, irregularity, or want has occasioned a failure of justice****." [Emphasis added]*

44. Article 138 of The Constitution of Democratic Republic of Sri Lanka states:

> *"The Court of Appeal shall have and exercise subject to the provisions of the Constitution or of any law, an appellate jurisdiction for the correction of all errors in fact or in law which shall be [committed by the High Court, in the exercise of its appellate or original jurisdiction or by any Court of First Instance], tribunal or other institution and sole and exclusive cognizance, by way of appeal, revision and restitutio in integrum, of all causes, suits, actions, prosecutions, matters and things [of which such High Court, Court of First Instance] tribunal or other institution may have taken cognizance: Provided that no judgment, decree, or order of any court shall be revised or varied on account of any error, defect or irregularity,* ***which has not prejudiced the substantial right of the parties or occasioned a failure of justice****". [Emphasis added]*

45. Therefore, in my opinion, the failure of the Trial Judge to record the steps taken in compliance with Section 200(1) of the Code of Criminal Procedure Act has neither caused any substantial injustice to the appellant nor occasioned any miscarriage of justice at the trial.

46. The next ground to be considered is whether the judgment of the learned Trial Judge complies with Section 283 of the Code of Criminal Procedure Act. It was further submitted that the learned Trial Judge erred in concluding that the evidence of PW1 was consistent with the medical evidence. It must be noted, however, that PW8 testified that the fatal injuries sustained by the deceased were caused by a firearm. This is entirely consistent with the evidence of PW1, who stated that the appellant shot the deceased with a firearm. Therefore, the learned Trial Judge's conclusion in this regard cannot be considered erroneous.

47. It appears that the learned Trial Judge has not analysed the evidence of PW1 in detail. Nevertheless, he has taken into consideration the promptness with which PW1 made his statement to the police and concluded that the contradictions and omissions highlighted by the defence in PW1's testimony do not go to the root of the prosecution case.

48. Furthermore, the learned Trial Judge has considered the dock statement but incorrectly observed that the appellant had not challenged the evidence that he fled to a nearby thicket after the incident and was arrested on the following day. In fact, during cross-examination, the appellant specifically disputed the prosecution's version of his arrest. In any event, it is impossible to infer that any reasonable judge could have reached a different conclusion regarding the appellant's guilt, even if the evidence had been analyzed in greater detail.

49. Therefore, it is my considered view that, despite the presence of some minor contradictions and omissions, the prosecution's evidence, when considered in its entirety, is sufficient to safely secure the conviction of the appellant, notwithstanding the appellant's submission that the prosecution failed to prove the charge beyond a reasonable doubt.

50. It is also desirable to emphasize that the presence of minor contradictions or omissions in a witness's testimony does not necessarily create a reasonable doubt in the prosecution's case. While it is true that the prosecution is required to prove the charges against the appellant beyond a reasonable doubt, this does not mean the standard extends to fanciful or imaginary doubts. In this regard following authorities are of much relevance.

51. In ***Shivaji Sahebrao Bobade & Anr. v. State of Maharashtra, AIR 1973 SC 2622***, the Supreme Court of India has commented that,

> *"the cherished principles of the golden thread of proof beyond reasonable doubt which runs through the web of our law should not be stretched morbidly to embrace every hunch and degree of doubt. ... Only reasonable doubts belong to the accused. Otherwise, any practical system of justice will break down and lose credibility with the community."*

52. In ***Dharm Das Wadhwani v. The State of Uttar Pradesh, 1974 Cri. LJ (SC) 1249,*** the Supreme Court of India has observed that,

> *"... The rule of benefit of reasonable doubt does not imply a frail willow bending to every whiff of hesitancy. Judges are made of sterner stuff and must take a practical view of legitimate inferences flowing from evidence, circumstantial or direct. ..."*

53. In ***Wijesekera (Excise Inspector) v Arnolis, (1940) [17 CLW 138],*** Justice Wijeyewardene has held that

> "*… it is not every kind of doubt the benefit of which an accused person is entitled. An accused person could claim only the benefit of a reasonable doubt. It is always possible to conjure up a doubt of a very flimsy nature. But an accused person cannot be acquitted on the ground of such doubt…The guilt or innocence of an accused person must be determined on evidence and not on some suggestion made in the course of an argument…".*

54. In ***Miller v. Minister of Pensions, [(1947) 2 A.E.R. 372]*** Lord Denning has explained what proof beyond reasonable doubt is, in the following lucid manner:

> *"...Proof beyond reasonable doubt does not mean proof beyond the shadow of a doubt. The law would fail to protect the community if it admitted fanciful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour which can be dismissed with the sentence, 'of course it is possible, but not in the least probable', the case is proved beyond reasonable doubt, but nothing short of that will suffice."*

55. Upon the above analysis of the law and facts, in light of the grounds of appeal, I find no merit in the arguments advanced by the defence. Accordingly, I see no reason to interfere with the judgment of the learned High Court Judge. In the circumstances, I hereby dismiss the appeal.

Judge of the Court of Appeal

P. Kumararatnam, J.

I agree,

Judge of the Court of Appeal