

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

**In the matter of an Appeal 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.**

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

**Complainant**

Court of Appeal  
**Case No. CA HCC 154/2017**

Vs.

High Court of Jaffna  
**Case No. HC 2076/2017**

Kandasamy Jegatheeswaran

**Accused**

**AND NOW BETWEEN**

Kandasamy Jegatheeswaran

**Accused-Appellant**

Vs.

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

**Complainant-Respondent**

**Before:**     **Amal Ranaraja, J.**  
                  **Dr. Sumudu Premachandra, J.**

**Counsel:**   Pasindu Gamage with Tenny Fernando for the Accused-  
                  Appellant.

Azard Navavi, A.S.G. for the Respondent.

**Argued on:**     01.06.2026

**Judgment on:** 18.06.2026

## **JUDGMENT**

**AMAL RANARAJA, J.**

1. The accused appellant (hereinafter referred to as the “Appellant”) has been indicted in the *High Court of Jaffna* in case number HC 2076/2017.

The charges in the indictment are as follows:

Charge 01

That on or about April 07, 2017, in the district of Jaffna, within the jurisdiction of this Court, the appellant committed the offence of rape on a minor girl, who was under the age of 16 years, an offence punishable under section 364(2) of the Penal Code (Amendment) Act No.22 of 1995.

Charge 02

That during the same course of transaction, the appellant committed murder by causing the death of the aforementioned minor girl, and thereby committed an offence punishable in terms of section 296 of the Penal Code.

2. At the conclusion of the trial, the appellant has been convicted of the charges and sentenced as follows:

Count 01: Imposed a jail term of twenty years rigorous imprisonment. Also, imposed a fine of Rs. 25000.00 with a term of one year rigorous imprisonment in default. The appellant has been directed to pay a sum of Rs. 1000000.00 as compensation with a term of five years rigorous imprisonment in default.

Count 02: The appellant has been sentenced to death.

3. Aggrieved by the convictions and the sentencing order, the appellant has preferred the instant appeal to this court.

#### **Case of the prosecution**

4. On the day of the incident, PW01, the father of the twelve-year old deceased, has sent his daughter to the market to purchase fish. Between approximately 8.00 and 8.30 hours, PW03 and PW04, both residents of the same village have observed PW01 riding a bicycle in the direction of the market. They have further noted that the appellant who was known to them was closely following PW01, also on a bicycle.
5. When the deceased did not return home from her errand, a search has commenced. Later that same afternoon, while PW02 had been on her way to fetch firewood, she has discovered the body of a girl lying face down on the ground. PW02 has promptly informed the police of her sighting which has led to the commencement of an official investigation.
6. During their investigation, investigators have recovered items of evidence which have been subsequently sent for further forensic testing. *Dr. S. Sivarooban*, a *Judicial Medical Officer* has conducted the post-mortem

examination of the deceased and the detailed report prepared later has been produced as evidence and marked P2.

7. *Dr. Sivarooban* has concluded in his report that the death was caused by injuries sustained to the skull and brain.

### **Case of the appellant**

8. The appellant has asserted his non-involvement in the incident detailed in the charges maintaining that he has been falsely implicated.

### **Grounds of appeal**

9. When the matter was taken up for argument, the learned Counsel for the appellant urged the following grounds of appeal:
  - i. The learned High Court Judge erred in law and fact by placing undue and exclusive reliance upon expert evidence, which on a proper evaluation fails to establish the commission of the offences by the appellant and to establish a nexus between the appellant and the deceased beyond a reasonable doubt, and thereby misdirected himself on the sufficiency of evidence on arriving at a verdict of guilt.
  - ii. The learned High Court Judge erred in law and in fact by failing to adequately analyze the evidence adduced by the appellant, thereby failing to assess whether such evidence viewed as a whole was capable of raising a reasonable doubt as to the guilt of the appellant and convict for the aforementioned charges.

- iii. The learned High Court Judge erred in law and fact in failing to conduct a proper and balanced analysis of the totality of evidence placed before court, and by erroneously attributing undue weight that was inherently weak and insufficient in law to sustain a conviction, thereby rendering the verdict unsafe.

The grounds of appeal being interconnected, all three of them will be taken into consideration simultaneously.

10. During the post-mortem examination, *Dr. Sivarooban* has observed twenty one injuries on the body of the deceased. These injuries have included bleeding wounds. Additionally, seminal fluid has been found in the vagina and a bite mark has been noted in the area above the left elbow of the deceased. *Dr. Sivarooban* has collected a sample of the seminal fluid and detached the skin where the bite mark was visible, preserve it scientifically before forwarding both for further analysis.
11. Following the appellant's accusation of the stated offences and subsequent placement into custody, the investigators have recorded his statement. Based on the information provided in that statement, investigators have recovered a t-shirt and a sarong which were placed on a clothes line in the back garden of the appellant. The relevant extract of the statement has been marked P4 and the t-shirt and sarong as P6 and P5 respectively. These items (P5 and P6) have been subsequently forwarded by the investigators for further analysis.
12. *Dr. Ruwan Ileperuma*, a scientist attached to the *Genetech Institute*, has processed the seminal fluid sample found on the deceased, along with the blood stain found in the sarong marked P5. These have been analyzed in comparison with a seminal fluid sample obtained from the appellant and the blood sample from the deceased. The analysis has revealed that the

blood stain on the sarong matched the DNA of the deceased. Regarding the seminal fluid, *Dr. Ileperuma* has opined that it was of human male origin but has not conclusively identified it as belonging to the appellant.

13. *Dr. Jayani Weeraratne, a Judicial Dental Specialist* has examined the dental structure obtained from the appellant and the bite mark found on the deceased's body. She has concluded that the bite mark was made by the appellant. *Dr. Weeraratne* has testified in detail regarding the basis for her findings. The odontology report has been produced as evidence and marked P8.

14. The learned Counsel for the appellant has contended that while dental evidence is useful for identification purposes, it is not sufficiently reliable to convict an offender of a charged offence.

15. In *Chandrasena alias Rale v Attorney General* [2008] 2 SLR 255, *Sisira De Abrew J.* stated as follows:

*“Expert's opinion is only a guide to Court. Court must come to its conclusion with regard to the issues of the case.”*

16. In legal proceedings, expert witnesses serve as pivotal figures, providing informed opinions that can decisively influence the outcome of a case. However, the credibility and reliability of the experts often come under scrutiny, creating an opportunity for parties to dispute their findings and methodologies. Challenging an expert witness can be done focusing on the expert's qualifications, the relevance of their testimony and the soundness of their methodology.

17. Cross-examination during a trial represents a vital phase in challenging an expert witness. During this process, Counsel can directly address the

expert pressing them on inconsistencies, assumptions or lack of support for their claims.

18. In addition, opposing expert witnesses could be used. By presenting their own expert testimony to counter the claims made by the other party's expert, Counsel can create a more balanced picture for the court.

19. In the case of *Charles Perera V. Motha* [1961] 65 NLR 294 Basnayake, C. J. stated that:

*“The standing of the expert, his skill and experience, the amount and nature of the materials available for comparison, the care and discrimination with which he has approached the question on which he is expressing his opinion, the extent to which he has called in aid the advances of modern science to demonstrate to the Court the soundness of his opinion, are all matters which will assist the Court in assessing the weight to be attached to the fact of his opinion. The cross-examination of the " expert " by the opposing side, where it is properly directed, would also assist the Court in determining what weight it should attach to the fact declared relevant by section 45.”*

20. The Supreme Court of India in *Naveen @ Ajay vs The State Of Madhya Pradesh* [2023] INSC 936, highlighted the importance of giving a “proper opportunity” to the accused to cross-examine expert evidence to adequately scrutinize the underlying basis and techniques of such findings in order to ascertain their reliability.

21. At the trial, the appellant has not disputed *Dr. Jayani Weeraratne's* qualifications or the soundness of her methodology in reaching her conclusion. The appellant has also failed to present any other grounds to disregard evidence of expert testimony. Consequently, the learned High

Court Judge has not misdirected himself by drawing attention to such testimony.

22. Furthermore, while the Counsel for the appellant referred to a publication on the mater, it has not been submitted as evidence during the trial.

23. The appellant has also contended that the investigators intentionally contaminated the sarong marked P5 with blood of the deceased to obtain a DNA match. However, the appellant has not put this suggestion to the prosecution witnesses including the investigating officers during cross-examination. The appellant has not provided a convincing explanation for this oversight. In light of these circumstances, it could be inferred that this particular argument was developed as an afterthought.

24. In the case of *Gunasiri and Two Others vs Republic of Sri Lanka* [2009] 1 SLR 39, Sisira De Abrew J. has held that:

*“It is a rule of essential justice that whenever the opponent has declined to avail himself of the opportunity to put his case in cross examination, it must follow that the evidence tendered on that issue ought to be accepted.”*

25. The learned High Court Judge has examined the evidence in their entirety, refusing to compartmentalize pieces of evidence in a vacuum. Having undertaken this holistic approach, the learned High Court Judge has applied the correct methodology and arrived at findings that are both cogent and sustainable.

26. Accordingly, I am not inclined to interfere with the conviction, disputed judgment and the sentencing order. I proceed to affirm the same and dismiss the appeal.

*Appeal dismissed.*

*I make no order regarding costs.*

27. The Registrar of this Court is directed to send this judgment to the *High Court in Jaffna* for compliance.

**Judge of the Court of Appeal**

**DR. SUMUDU PREMACHANDRA, J.**

I agree.

**Judge of the Court of Appeal**