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

In the matter of an Appeal under Section 14 of the Judicature Act No.2 of 1978 read with the Provisions of Section 11 of the High Court of the Provinces (Special Provisions) Act, No.19 of 1990 and Section 331 of the Code of Criminal Procedure Act No. 15 of 1979.

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

Complainant

CA HCC 64/2024
Ratnapura High Court No.
HC 92/2016

Vs.

Sinnathambi Kumarasami

Accused

AND NOW BETWEEN

Sinnathambi Kumarasami

Accused-Appellant

Vs.

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

Complainant-Respondent

Before: **Sampath B. Abayakoon, J.**
Amal Ranaraja, J.

Counsel: Eranga Sirisena for the Accused-Appellant.

Dishna Warnakula, D.S.G. for the Respondent.

Argued on: 14.10.2024

Decided on: 11.12.2024

JUDGMENT

AMAL RANARAJA, J.

1. The accused-appellant was indicted in the *High Court of Ratnapura.* The indictment against the accused-appellant reads as follows;

   (a) That on or about 21.03.2011, at *Kahawatta*, in the *District* of *Ratnapura* within the jurisdiction of this Court you did commit murder by causing the death of *Krishnapille Chandra Kumari* and that you have thereby committed an offence punishable under Section 296 of the Penal Code.

2. The accused-appellant has pleaded not guilty to the charge and the matter has proceeded to trial without a jury.

3. At the conclusion of the trial, the Learned High Court Judge has found the accused-appellant guilty to the charge, convicted and sentenced him to death.

4. The accused-appellant (hereinafter referred to as the 'appellant') aggrieved by the judgement and the sentencing order has preferred the instant appeal to this Court.

5. Grounds of appeal on behalf of the accused-appellant:

   (a) The Learned High Court Judge erred in law when analysing the law relating to a dying declaration of the deceased person.

   (b) The Learned High Court Judge has misdirected herself in evaluating the evidence led in the case with regard to the incident.

   (c) The Learned High Court Judge has not considered the fact that there is a reasonable doubt connected to the dying declaration.

   (d) The Learned High Court Judge has not properly evaluated the medical evidence in relation to the dying declaration.

Facts in Brief:

6. The deceased *Krishnapille Chandrakumari*, has been a widow at the relevant period of time. Her husband has passed away about thirteen years ago. She is a mother of two. The elder daughter has gone overseas for employment. The younger daughter ('**PW4**') was residing with an aunt of her's in the *Watapotha* area at the relevant period of time. The deceased

accordingly resided alone in a line room situated on the *Gabbela* division of the *Andane Estate* in *Kahawatta*.

7. **PW1** and **PW3** are husband and wife. They lived in the neighbouring line room to that of the deceased. On the day of the incident, **PW1**, **PW3**, their child and a neighbour by the name of *Logachandran* were inside the line room they were residing in, when they heard screams from the direction of the line room occupied by the deceased. Such screams were heard at about 20.00 hrs on **21.03.2011**. When **PW1** and **PW3** rushed in to the line room occupied by the deceased, they have seen the deceased in flames. The dress of the deceased had caught fire. The flames had spread to the upper body area of the deceased. **PW1** and **PW3** have also seen the appellant in the kitchen area where the deceased was in flames. The appellant had been leaning on to a door frame therein when **PW1** and **PW3** saw him first. The appellant has been the only other person present at that scene of the incident, in addition to **PW1**, **PW3** and the deceased at that moment of time.

8. Soon after **PW1** and **PW3** arrived at the scene, the appellant had himself tried to extinguish the fire using the water collected in a pot for consumption purposes. The appellant has also subsequently, tried to remove the clothes of the deceased which were burning and injured a hand of his in the process. Further, has pleaded that he be taken to the hospital for treatment.

9. **PW1**, **PW3** and the others who had gathered at the scene subsequently have called for the estate ambulance to transport

the injured to the hospital. The deceased and the appellant have been admitted to the *Kahawatta Base Hospital* initially and then transferred to the *Ratnapura Teaching Hospital* for further treatment. The deceased while receiving treatment has passed away on **29.03.2011**. **'PW8'**, *Dr. I. A. Rathnayake,* has conducted the post-mortem of the deceased on **31.03.2011** and opined that the death was due to extensive burns. The post-mortem report has been marked as **'පැ.3'**.

10. When the deceased was receiving treatment at the *Ratnapura Teaching Hospital*, **'PW6'** (***PS48378 Amarasekara Dissanayake***) being an officer assigned to the team to investigate the complaint regarding the incident which caused injuries to the deceased and the appellant, has proceeded to record a statement of the deceased on **26.03.2024**. Prior to recording the statement **PW6** has obtained the permission of the matron in charge of the particular ward and also satisfied himself of the fact that the deceased was in a fit and proper state at that time to make a statement. Since the statement has been recorded in the Sinhala language, **PW6** has further satisfied himself of the competence of the deceased to make a statement in the Sinhala language.

11. The statement made by the deceased to **PW6** on **26.11.2011** is as follows,

> *"...කිෂ්නාපිල්ලේ චන්ද්‍රකුමරි වයස අවු 40 ලංකා දෙමල හින්දු රක්ෂාව කුලීවැඩ පදිංචි ලිපිනය ගබ්බේල් කොටස ඇන්දාන වත්ත කහාවත්ත යන අය මෙසේ කියා සිටි මාගේ සැමියා වන පංඩිරාජ් යන අය මියගොස් දැනට අවු 13 පමන වෙනවා මා හට දුවලා දෙන්නෙක් ඉන්නවා එක් දුවකගේ*

වයස අවුරුදු 16 ක් වන අතර ඇයගේ නම පංඩිරාජ් ෂර්මිකා වේ දෙවැනි දුවගේ වයස අවු 21 වන අතර ඇය විදේශ ගතවේලා ඉන්නේ පංඩිරාජ් ෂර්මිකා දුව වටපොත මගේ නැදෑයකුගේ ගෙදර නවත්තලා ඉන්නවා ගෙදර ඉන්නේ මා පමනයි දැනට අවු 03 ක පමන කාලයක සිට අපේ ගොවල්ලග ඉන්න කුමාරෂාමි යන අය මාත්එක්ක යාලුවෙන්න ආවා මම බැහැ කියුවා නමුත් ඔහු දවසකට දෙතුන්සැරයක් අපෙගෙදරට එනවා මේ අතර තුර අපිදෙන්නා අතර තුර සමබන්දයක් ඇතිවුනා ඒකට කුමාර ෂමිගේ ගෙදර අය තරහයි කුමාරෂාමිගේ පවුල වන ක්‍රිෂ්නතුමාරි යන අය කිහිපවතවක්ම අපිදෙන්නට විරුද්ධව පොලිසියේ පැමිණිලි කලා මේ මාසේ දොලොස්වන දිනත් ක්‍රිෂ්නකුමරි පොලිසියේ දාපු පැමිණිල්ල විභාගකරන්න පොලිසියට ගියා පොලිසියේදී අපි දෙන්නට කියුවා සම්බන්දය නතර කරන්න කියලා මෙසේ තිබියදි 2011.03.21 වන දින උදේ මම මගේ පොඩිදුවගේ ෂර්මිකා යන අයට මුදල් උවමනාවකව මාගේ

මුද්දක් කුමාරෂාමි උකස්කර තිබුනා කහවත්තේ බැංකුවට මම කුමාරෂමි එක්ක ඇවිත් මුද්ද බේරලා මා සල්ලි ගත්තා මම මුද්දත් අරගෙන ගෙදරගියා ගෙදරට යනකොට සවස තුනට විතර ඇති මාගේ දුව වටපෙප ගෙදර ගියා මම ගෙදරගිහින් ඉන්නකොට සවස පහට විතර කුමාරෂාමී බිගෙන මාගේ ගෙටඇවිත් මා ඔහුටකියා බේරාගෙන ගෙදරගෙනගිය මුද්ද ඉල්ලා මාත් එක්ක රංඩුකලා මම බැනලා කුමාර ෂාමිට කියුවා ගෙදරයන්න කියලා කුමාරෂාමි ගෙදගිහින් නැවතත් රාත්‍රී 07.00 ට විතර මම ගෙදර කෑම උයමින් ඉන්නකොට මාගේ ගෙදරට ඇවිත් වේසියේ මට මුද්ද දියන් කියලා මට පහාර දුන්නා මමත් කුමාරෂාමිට ගැහුවා මේ වෙලාවේ කුස්සිය ලග තිබුන ලාම්පුතෙල් බෝතලය අරගත් කුමාරෂාමි මම අදගෙනඉට්ටිය ගවුමට වක්කලා ඒ එක්කම ලිපේ තිබුන ගින්දර අරගෙන මගේ ඇදුමට ගිනිතිබ්බා මාගේ ඇදුම් වලට ගිනිගන්නකොට මමත් කුමාරෂාමිත් හයියෙන් කැහැවුවා මේ ශබ්දයට එහා ගෙදර ඉන්න වසන්ති දුවගෙන අපෙගෙදරට අවා පස්සේ කට්ටිය එකතුවෙලා මමත් කුමාරෂාමිත් වත්තේ ඇබ්බියුලනස් එකෙන් කහාවත්ත ඉස්පිරිතාලෙට එක්කරගෙන අවා කුමාරෂාමිගේ අතත් පිච්චුනා මගේ ඇදුම ගලවන්න ගිහින් මට කිමට ඇත්තේ එපමනයි...."

12. The statement made by the deceased to **PW6** being one in the nature as reproduced above, such statement by the said *Krishanapille Chandra Kumari* (since deceased) refers to circumstances of the transaction which resulted in her death.

13. **Section 32** of the **Evidence Ordinance No.14 of 1895** provides,

> **"***Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which, under the circumstances of the case, appears to the court unreasonable, are themselves relevant facts in the following cases: -*
>
> *(1) When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question.*
>
> *Such statements are relevant whether the person who made them was or not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceedings in which the cause of his death comes into question…"*

14. Furthermore, **Illustration '(a)'** to **Section 32** of the **Evidence Ordinance** provides,

> "*The question is, whether A was murdered by B, or whether A died of injuries received in a transaction in the course of which she was ravished.*
>
> *The question is, whether she was ravished by B; or*
>
> *The question is, whether A was killed by B under such circumstances that a suit would lie against B by A's widow.*

Statements made by A as to the cause of his or her death, referring respectively to the murder, the rape, and the actionable wrong under consideration, are relevant facts".

15. In those circumstances, the Learned High Court Judge applying the provisions in **Section 32(1)** of the **Evidence Ordinance No. 15 of 1895** has permitted the statement referred to above, to be read in evidence on the basis that it referred to circumstances of the transaction which resulted in the death of the deceased, therefore a "dying declaration". The relevant statement has been marked as '**පැ. 2**'.

16. The Learned Counsel for the appellant has contended that the deceased was unable to make a statement to **PW6** due to the critical condition she was in as a result of the burn injuries suffered by her. The Counsel has further contended that the deceased was unable to speak with the passage of time, after sustaining the burn injuries and sought to substantiate her contention by drawing the attention to portions of evidence of **PW4** (the daughter of the deceased) and the doctor who conducted the post-mortem examination on the deceased, *Dr. I. A. Rathnayake* (**'PW8'**).

17. *Dr. I. A. Rathnayake* has stated as follows;

ප්‍ර : දැන් වෛද්‍යතුමියණි, ඔබ සඳහන් කළ මේ ඔබතුමියගේ අවධානය යොමුකරනවා මම මේ පළවේනි තුවලයට. එහි සඳහන් කරනවා මුහුණේ සහ බෙල්ල ප්‍රදේශයේ පිළිස්සිලා තියෙනවා කියලා ?

උ : එසේයි ස්වාමිනි.

ප්‍ර : දැන් මේ තුවාලය අනුව වෛද්‍යතුමියණි යම්කිසි පුද්ගලයෙක්ට කතා කිරීමේ හැකියාවක් තියෙනවාද ?

උ : ඇයට මුල් අවස්ථාවේදී කතා කිරීමේ හැකියාවක් පවතිනවා ස්වාමිනි.

ප්‍ර : කතා කිරීමේ හැකියාවක් පවතිනවා ?

උ : පවතිනවා ස්වාමිනි.

ප්‍ර : එතකොට ඒ කියන්නේ සාමාන්‍යයෙන් ලාම්පුතෙල් නැත්නම් භූමිතෙල් නැත්නම් පෙට්ට්‍රල් වැනි ද්‍රව්‍යයකින් ඒ ගින්න හටගන්න පුළුවන්?

උ : එසේයි ස්වාමිනි.

ප්‍ර : දැන් වෛද්‍යතුමියණි, ඔබතුමියට කියන්න පුලුවන්ද ඔබතුමියගේ මතය අනුව මෙම තැනැත්තිය ක්‍රිෂ්ණපිල්ලේ කියන තැනැත්තියගේ මරණයට හේතුව මොකක්ද කියල ගරු අධිකරණයට කියන්න පුළුවන්ද?

උ : ස්වාමිනි මම මේ තැනැත්තියගේ මරණයට හේතුව ලෙස සඳහන් කරලා තියෙන්නේ විශාල පිළිස්සුම් තුවාල සියල්ලන්ගෙන්ම පිටවෙන ඒ කියන්නේ ඒ ආශ්‍රිතව ඇතිවෙන සංකූලතා ඇතුළු දරුණු පිළිස්සුම් තුවාල තමයි මම මර්ණයට හේතුව වශයෙන් දක්වලා තියෙන්නේ.

ප්‍ර : ඒ ඔබගේ මතය කියල කිව්වොත් නිවැරදිද?

උ : එසේයි ස්වාමිනි.

ප්‍ර: ක්‍රම ක්‍රමයෙන් කියන්නේ පිළිස්සුණු ගමන්ම මුලදී කතා කරන්න පුළුවන් ක්‍රම ක්‍රමයෙන් පසුකාලීනයි කතා කිරීමේ අපහසුතාවයට පත්වෙන්නේ?

උ: අපහසුතාවයට පත්වෙන්නේ ස්වාමිනි.

ප්‍ර: මුලදී පුළුවන්කම තියෙනවා?

උ: එසේයි ස්වාමිනි.

ප්‍ර: වෛද්‍යතුමියණි දැන් ඔබතුමිය සඳහන් කළා මේ පිළිස්සුම් තුවාල 06 ක් සඳහන් කළා නේද වෛද්‍යතුමියණි?

උ: එසේයි ස්වාමිනි.

ප්‍ර: ඒ පිළිස්සුම් තුවාලවලට අනුව ඔබතුමිය කලින් සඳහන් කළා හුස්ම ගැනීමේ අපහසුතා ඇතිවෙනවා මේ විශේෂයෙන්ම දෙවෙනි තුවාලය සම්බන්ධයෙන් නේද?

උ: එසේයි ස්වාමිනි.

ප්‍ර : හැබැයි කෙසේ වෙතත් අර ඔබ සඳහන් කරන ලද හුස්ම ගැනීමේ අපහසුතාවය තිබුණත් කතා කිරීමේ හැකියාවක් තිබෙනවාද ඔබතුමියගේ නිගමනය වෘතිමය පළපුරුද්ද් මත?

උ : ස්වාමීනි මේ රෝගී තැනැත්තිය රෝහලට ඇතුල් කරන අවස්ථාවේදී ඇය රෝගියේ මුල්ම අවස්ථාවේ සිටින තැනැත්තියක්. පිළිස්සුම් තුවාල් ලබා අධික වේදනාවෙන් සිටින තැනැත්තියක්. නමුත් මුහුණ ප්‍රදේශයේ සහ මුඛය ආශ්‍රිතව සිදුවූ පිළිස්සුම තුවාල මතුපිට තුවලවීම හේතුවෙන් ඇයට කතා කිරීමේ හැකියාවක් මේ අවස්ථාවේදී තියෙනවා. නමුත් මෙම පිළිස්සුම තුවාලවල බරපතලතාවය සහ ඇයගේ කම්පන තත්ත්වයට පත්වීම හේතුවෙන් ක්‍රමයෙන් ඇයට කතා කිරීමේ අපහසුතාවය ඇතිවෙන්න පුළුවනි.

18. PW4 (the daughter of the deceased), has stated as follows;

ප්‍ර : එහෙම කතා කරලා කොච්චර කාලයිකින්ද අම්මා මිය ගියේ?

උ : සතියක් විතර නමයි ඉස්පිරිතාලේ හිටියේ. 29 නැති වුණා.

ප්‍ර : මොන අවුරුද්දේද ?

උ : 2011 මාර්තු 29.

ප්‍ර : 2011 මාර්තු 29 අම්මා නැති වෙනකම් තමන් අම්මාව බලන්න ඉස්පිටිතලේට ගියාද?

උ : අම්මා නැති වෙනකම් අම්ම ළඟ හිටියා.

ප්‍ර : මිය යනක්මම අම්මා කතා කළාද ?

උ : ටික ටික දවස් 2 ක් විතර යනකොට එයාට සිහිය නැහැ. ඒ කියන්නේ අම්මා කියන දේවල් අම්මාට මතක නැහැ.

ප්‍ර : ඔය අම්මාට කතා කර ගන්න බැරි වුණේ කොච්චර දවසකට පසුවද ?

උ : කතා කළා. ඒ වුණාට එයාට මතක නැහැ.

ප්‍ර : එහෙම වුණේ කොච්චර දවසකින් පසුවද ?

උ : දවසක් දෙකක් යනකොටම එහෙම වුණා.

ප්‍ර : තමන් මේක ගැන පොලිසියට කටඋත්තරයක් ලබා දුන්න නේද?

උ : ඔව්.

ප්‍ර : මුලින් හොඳට යම් මට්ටමක සිටියාද ?

උ : ඔව්. දවස් 2, 3 ක් හොඳට කතා කරලා හිටියා. ඊට පස්සේ තමයි කල්පනාව නැතුව වගේ හිටියේ.

19. *Dr. Rathnayake* in her evidence has expressed only an opinion. *Dr. Rathnayake* does not specifically state that the injuries suffered by the deceased have resulted in the deceased not being able to speak. Further, *Dr. Rathnayake* has not been "on call" in the ward where the deceased was receiving treatment. Therefore, she has not been in a position to monitor the condition of the deceased continuously until her death. Further, the evidence of *Dr. Rathnayake* regarding the condition of the deceased is not based on notes prepared by her upon observing the deceased as a patient.

20. The statement of the deceased marked as '**ಪಿ. 2**' has been recorded by **PW6** on **26.03.2011**. Prior to recording the statement marked '**ಪಿ. 2'**. **PW6** has proceeded to record a statement of **PW4** the daughter of the deceased. The statement of **PW4** has been recorded by **PW6** on **25.03.2011**. The statement has been recorded at a location close to the place where the fire happened. In those circumstances, it is questionable as to whether **PW4** was always by the bedside of the deceased in the hospital and was able to monitor the deceased continuously as stated by **PW4** in her evidence.

Further, **PW4** has mentioned nothing about the deceased being not able to speak in her statement to **PW6**. Such omission has prompted PW6 to proceed to the hospital and record a statement of the deceased subsequently on **26.03.2011**.

21. It is the evidence of **PW6** that the deceased was stable and was able to converse on the day **PW6** recorded her statement in the hospital. **PW6** has obtained permission from the matron in charge of the ward, the deceased was in, prior to recording the deceased statement. The matron has given permission to **PW6** to do so. Generally, such permission would not have been granted if the deceased was not in a fit state to converse. Further, when **PW6** was cross-examined, it has not been suggested to the witness that the deceased was not in a fit state on the particular date to make a statement to **PW6**. Also, the credibility of **PW6** has not been impeached by the appellant at the trial.

22. Accordingly, I reject the contention of the appellant that the deceased did not make the statement marked '**අ. 2'**.

23. The post-mortem report prepared by **PW8** has been produced as evidence and marked as '**අ. 3**'. *Dr. Rathnayake* has expressed an opinion that the death of the deceased has occurred due to the injuries caused by extensive burns to the body of the deceased and concluded that the bodily injuries inflicted by the burns have been sufficient in the ordinary course of nature to cause the death of the deceased.

24. It has been established by the prosecution that the appellant was the only person present with the deceased at the particular location when the latter was in flames. The appellant had not attempted to extinguish the fire until **PW1** and **PW3** arrived at the scene of the incident. Further, it can be observed that the appellant has not attempted to extinguish the fire to the best of his ability. The appellant has in a lethargic manner splashed some water onto the deceased's body, which has been brought for drinking purposes and was collected in a pot.

25. The appellant has also not made a proper attempt to collect sufficient water from an external source and use it to extinguish the fire. Further, the appellant has not cried out for help at the first given opportunity nor has he made an attempt to seek medical intervention on behalf of the deceased without delay. When the statement marked '**අ. 2**' was read in evidence, the appellant has not disputed the contents in it at the first

instance. In those circumstances the prosecution has established highly incriminating evidence and such circumstances which caused the appellant to appear guilty of the crime, in other words, a prima facie case has been made out by the prosecution. Therefore, the appellant is required in law to offer an explanation.

In *Sumanasena vs. Attorney General [1999] 3 SLR page 137 at page 142*, Jayasuriya, J, has stated,

> "*When the prosecution establishes a strong and incriminating cogent evidence against the accused, the accused in those circumstances was required in law to offer an explanation of the highly incriminating circumstances established against him*".

His Lordship has also stated,

> *"…the learned trial Judge was entitled to draw certain inferences which he deemed proper from the failure of the accused to give evidence in explanation of such circumstances".*

26. The appellant in making a statement from the dock has stated that on this particular day he visited the deceased to hand over to her a mobile phone which was collected after repairs and a ring of the deceased which was redeemed from a pawning centre by the appellant. When the appellant visited the residence of the deceased, the deceased has supposedly complained that **PW4**, had expressed her displeasure regarding the deceased's

behavior towards the appellant. The deceased had also stated that either of them will have to take a decision due to the displeasure expressed by her daughter. The appellant thereafter has left the mobile phone and the ring on a table in the line room occupied by the deceased and just stepped out of the particular line room when he heard a noise. When the appellant stepped into the line room occupied by the deceased again, to ascertain what the noise was, he has seen the deceased standing near the cooker in flames. The appellant has further stated that was all that happened on that day.

27. The appellant in making a further statement in answer to an allocutus has contradicted himself in stating that he saw the deceased set herself on fire and did so by holding her dress to the flame in the cooker.

28. In ***Periyambalam et al., vs. The*** **Queen 74 NLR page 515 at page 519**, Siva Supramanian, J, has stated,

> "*Whatever may be the history of the origin of the allocutus at criminal trials, we are satisfied in this case that the statement of the 1st appellant was an unequivocal and unqualified admission to the Court that the injuries on the deceased which resulted in his death were inflicted by him. It was submitted by learned counsel for the appellants that the statement made by the 1st appellant is not part of the evidence in the case and this Court will not therefore be justified in acting upon it. We are unable to agree.*

In the case of Martin Appu v. The King[1] (52 N.L.R.119) it was held that the Court of Criminal Appeal may take into consideration statements made by the appellant in his notice of appeal although such statements refer to matters outside the evidence given at the trial."

29. In those circumstances, it is the view of this Court that the statement made in answer to an allocutus by the appellant is part of evidence in the case and the Appellate Court is justified in acting upon such evidence.

Though the appellant in making statements from the dock and in answer to the allocutus has attempted to communicate to Court that the deceased set fire to herself, such an explanation has not been suggested to the prosecution witnesses in cross-examination. Further, he has only offered such an explanation at the tail end of the trial. Due to the delay and inconsistency of such explanation offered by the appellant it could be inferred that such explanation has emanated from the appellant due to an after-thought of his. Therefore, it is my view that, good reasons exist to disregard the explanation of the appellant. In those circumstances, it is also my view that the appellant has failed to offer an explanation to the incriminating evidence established against him. The highly incriminating evidence established against the appellant therefore remain unexplained.

30. In ***King vs. Thajudeen*** **6 NLR page 16 at page 19**, Bonser CJ has stated,

"*But it was urged that they did not intend to break the man's rib and therefore they could not be convicted of*

grievous hurt. No doubt they had not in their mind at the time they struck him their baton and with their fists any definite idea that they were going to break his ribs or any particular rib; but 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".

Therefore, the Court can deem that the appellant intended to inflict such bodily injury to the deceased which was sufficient in the ordinary course of nature to cause the death of the deceased.

31. Due to the aforesaid reasons, we are not inclined to interfere with the impugned judgment and dismiss the appeal.

The Appeal is dismissed.

The Registrar of this Court is directed to communicate this judgment to the *High Court of Ratnapura* for compliance.

Judge of the Court of Appeal

SAMPATH B. ABAYAKOON, J.

I agree.

Judge of the Court of Appeal