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

In the matter of an Appeal in terms of section 331 (1) of the Code of Criminal Procedure Act No. 15 of 1979.

Court of Appeal No:

CA/HCC/0102/22

High Court of Ampara

Case No: HC/1836/17

Democratic Socialist Republic of Sri Lanka

COMPLAINANT

Vs.

Henarangala Wadueliye Liyana Arachchige Gunarathne

ACCUSED

AND NOW BETWEEN

Henarangala Wadueliye Liyana Arachchige Gunarathne

ACCUSED-APPELLANT

Vs.

The Hon. Attorney General,

Attorney General's Department,

Colombo 12.

COMPLAINANT-RESPONDENT

Before	: Sampath B. Abayakoon, J.
	: P. Kumararatnam, J.
Counsel	: Mirthula Skandarajah (Assigned Counsel) for the Accused-Appellant
	: Dishna Warnakula, D.S.G. for the Respondent
Argued on	: 19-06-2024
Written Submissions	: 20-03-2023 (By the Complainant-Respondent)
	: 12-12-2022 (By the Accused-Appellant)
Decided on	: 02-09-2024

Sampath B. Abayakoon, J.

The accused-appellant (hereinafter referred to as the appellant) was indicted before the High Court of Ampara for causing the death of one Samantha Jagath Kumara on or about 01-12-2012, at a place called Rathmalakandiya within the jurisdiction of the High Court of Ampara, and thereby committing the offence of murder, punishable in terms of section 296 of the Penal Code.

It needs to be noted that when the indictment was served upon the appellant, he has given a notice of alibi in terms of section 126A of the Code of Criminal Procedure Act.

After trial without a jury, the learned High Court Judge of Ampara found the appellant guilty of his judgment dated 09-02-2022, and accordingly, the appellant was sentenced to death.

The appellant filed this appeal on the basis of being aggrieved by the said conviction and the sentence.

Facts in Brief

The deceased was married to PW-01 and had three children out of the marriage. They were living in Rathmalakandiya area. On the day of the incident, namely, on 02-12-2012, her husband has come home around 12.30 in the night, and after having his dinner, had gone to sleep. Their house was a partly built one and the husband has slept on the floor of the room, while PW-01 and her elder daughter has slept on the bed. She also had her infant child with her.

There had been a bulb switched on in the living area of the house. While they were sleeping, she has heard her daughter screaming "තාත්තේ" and when she awoke and sat on the bed, she has seen her husband on the floor. When she wiped her eyes and looked around, she has seen a dark, tall person standing near the entrance to the room. He was wearing dark clothes and the witness has been specific that she did not see his face because she saw him by his side only.

When they started shouting, the person has run away. After the person went, PW-01 and her daughter (PW-04) have seen the deceased with cut injuries. When they alerted the neighbours, they have come and had taken steps to take her injured husband to the hospital. She has later come to know that he has passed away.

According to her evidence, she has attended an identification parade held to identify the person whom she saw, and had identified the appellant at the identification parade held.

The evidence of the daughter (PW-04) of the deceased has also been very much similar to that of PW-01. She has stated in her evidence that when she was awakened after hearing a sound, she saw a tall, dark person standing near the door and when she shouted, he ran away after attacking her as well.

It becomes clear from the evidence of PW-01 and 04 that since they have indicated that the person who came to the house was a stranger, an identification parade has been held after the appellant was arrested. The identification parade

notes reveal that both the PW-01 and 04 had identified the appellant without any difficulty as the person who came and attacked the deceased.

However, their evidence reveals that the appellant was a person well known to them. He had been living as their next-door neighbour until he and his family left the area a couple of years before the incident. The PW-01 has stated that although she did not know his name, she knew him as Chuti Ayya. The daughter of the deceased has described him as her best friend's father, who used to often take her to school along with her friend.

The evidence of PW-01, the wife of the deceased, also reveals that the wife of the appellant had a love affair with the deceased before she got married to the appellant. She has known that even after their separate marriages, the affair has continued between the deceased and the wife of the appellant. She has also come to know that few days prior to the incident, the deceased and the wife of the appellant had been seen together at the town having tea at a shop.

According to the evidence of PW-10, the main investigating officer of the incident, he was the Officer-in-Charge of Aranaganwila police during the day relevant to this incident. After receiving information about the incident, he has reached the place of the incident around 5.20 in the morning, and has recorded his observations. He has taken several items which contained blood and has observed that the intruder has come inside the house after removing an iron grill to commit the offence.

Upon further investigations, he has come to know that the deceased had an affair with a married woman and this has led to the investigating officer finding a clue about a suspect. By that time, based on the information provided by the wife and the daughter of the deceased, he had known that the attacker was a lean, tall person with short hair. As the witnesses have said that the person when leaving the room had to bend his head when passing the door, he has had a general idea of the height of the suspect as well. Based on the information and the suspicions he had, the investigating officer has gone to Unagalawehera area where he came

to know that the suspect was living, and had arrested the suspect on 03-12-2012 at 00.30 hours. After the arrest, the investigating officer has come to know that the appellant is a soldier serving in the army.

Upon further investigations, he has recorded a statement from the appellant and based on that statement and as shown by the appellant, has recovered a parcel, which was in a shopping bag at Bandanagala area, under the 33/5 culvert of the main road.

The witness has produced the portion of the statement that led to the recovery in terms of section 27 of the Evidence Ordinance as P-06. The witness has marked the shopping bag he recovered as P-07. Inside the shopping bag, he has discovered a knife with blood like stains, a maroon coloured pair of rubber hand gloves, a short-sleeved black coloured shirt, a mud covered pair of shoes and another black coloured short-sleeved t-shirt. The witness has marked the knife he recovered as P-08 and the rest of the items accordingly.

According to the evidence of the PW-10, when the appellant was arrested at his home, the wife of the appellant has given Nokia brand mobile phone to the appellant, which the investigating officer has taken into his custody. The number of the phone was 077-1660301, which had a Dialog SIM card and had the IMEI number 353665615559241. The said phone has been marked as P-11 during the trial.

He has taken steps to obtain call details of the phone from the relevant service provider. The said report has been marked as P-14. According to the report, a call has been taken on 01-12-2012 at 19.37 hours from Ambepussa area. Another call has been taken on 02-12-2012 at 05.40 hours from Kaduruwela area. Thereafter, at 06.44 hours, a call has been taken from Jayanthipura, which was about 15 kilometers away from Kaduruwela. At 11.05 hours, another call has been taken from an area called Laksha Uyana.

These times become relevant because of the alibi taken up by the appellant.

The evidence reveals that the investigating officers have taken steps to send the knife and several other items recovered during their investigations, along with a blood sample taken from the deceased for DNA analysis, and the report prepared by Genetech Institute in this regard has been marked as P-18.

The report marked P-18 is an admitted document in terms of section 420 of the Code of Criminal Procedure Act. The call detail report marked P-14 has also been admitted under the same provision.

According to the DNA Analysis Report marked P-18, blood has been discovered on the knife, which has been marked as P-06 when sent to the DNA analysis. The same knife has been marked as P-08 at the trial. The DNA analysis of the blood has matched the DNA of the blood sample taken from the deceased.

The evidence of the Judicial Medical Officer (JMO) who conducted the post-mortem of the deceased reveals that there were 14 cut and stab wounds on the body. The JMO has opined that a person who sustains this kind of injury would die within 2 to 3 minutes of receiving the injuries. He has also expressed the opinion that the cut and stab wounds he observed could be caused by using the knife marked P-08.

The identification parade notes have been marked as P-17 at the trial. There had been no challenge to the said notes.

At the conclusion of the prosecution case and when the appellant was called upon for his defence, he has chosen to make a statement from the dock and has called his wife as a witness on his behalf.

He has stated that he got married as a result of a proposal, and knew that his wife has had an affair with the deceased, and the affair ended before he married her. He and his wife had lived at his house in Unagalawehera and when their daughter was about three years old, they have decided to come and live in the village of his wife. He has joined the Army in April 2006. He and his family had lived in the village of his wife until the daughter was in the 4th grade at school.

His dock statement shows that the deceased was also married at that time and had a daughter of similar age to his daughter and both families had a close relationship as neighbours until the appellant moved back to his home village with his family.

The appellant has proceeded to explain his whereabouts on the day of the incident apparently to substantiate his claim of an alibi.

He has claimed that he worked at the Army hospital until 10.00 pm on the 1st December 2012 and left the hospital on his prior obtained leave. He has claimed that he left Colombo around midnight and reached home around 6.30 in the morning of the following day.

According to his version of events, he has been arrested by the police while attending to his paddy field in the morning hours, taken to the police station, and severely assaulted, which has resulted in admitting, which may be a reference to the crime, and has also stated that due to fear, he signed whatever the documents given to him and has denied any involvement to the crime.

The wife of the appellant in her evidence has stated that she had an affair with the deceased and since her family members did not approve the affair, she got married to the appellant in April 2000. The deceased also has gotten married at the same time. According to her evidence, both her family and the deceased's family had been neighbours over a long period of time in Ratmalkandiya, Siripura.

After the marriage, she and her husband have lived at her husband's home for some time. Later they returned to her parent's house, and had lived there until their daughter started attending the 4th grade at school. She has admitted that the deceased also had a girl child of similar age who was a classmate of her daughter and both families had a very close relationship until they decided to move back to the husband's home village. She has claimed that although she left the village, she maintained a close relationship with her village and used to go there frequently. She has stated that about three days before this incident, she

came to Batticaloa junction to attend a course and while she was there, she received a call from the deceased and they met as a result.

While they were having a chat, her own brother who has seen them together, had come and assaulted her telling her to go back home. She has claimed that neither her brother nor she did not inform this incident to her husband who was working at Narahenpita Army Camp at that time.

According to her, her husband has come home around 5.30 – 6.00 a.m. on the day he was arrested by the police. She has admitted that before the police took him away, she gave his mobile phone and the purse to the appellant. Later, she has come to know that her husband is under arrest by the Aranaganwila police.

She has further clarified the assault of her by her own brother stating that he assaulted her because her family opposed the affair she had with the deceased during her school days, and has admitted that when she was assaulted, her brother uttered the words 'go home, you have three kids.' She has also admitted that it was her brother who has taken the deceased to the hospital after the incident. She has claimed that the appellant was innocent of the charges preferred against him.

In his judgment, the learned High Court Judge has found the appellant guilty based on the eyewitness account of the incident by PW-01 and 02, on the basis that they have clearly identified the appellant at the time of committing the crime.

Further to that, the learned High Court Judge has also considered the circumstantial evidence led at the trial as well, in determining that the prosecution has proved the case beyond reasonable doubt against the appellant.

The Grounds of Appeal

At the hearing of this appeal, the learned Counsel for the appellant formulated the following two grounds of appeal for consideration of the Court.

1. Has the learned High Court Judge failed to evaluate the improbabilities and infirmities regarding the identity of the appellant.
2. Has the learned High Court Judge failed to properly evaluate the defence evidence, especially the defence of alibi taken by the appellant.

Consideration of The Grounds of Appeal

The 1st Ground of Appeal:-

It was the primary submission of the learned Counsel for the appellant that there was no basis for the learned High Court Judge to determine that PW-01 and 02, the two eyewitnesses to the incident, positively identified the appellant as the person who caused cut injuries to the deceased.

The learned Counsel submitted that since it has been established by way of evidence that the appellant was well-known to both the witnesses, there was no purpose in holding an identification parade to identify him, and the statements made by the witnesses to police clearly shows that the two witnesses have failed to identify the perpetrator of the crime although they were eyewitnesses to the incident. It was pointed out that they have also failed to disclose that they knew the appellant, which may have resulted in the holding of an identification parade.

The learned Counsel also submitted that there was not enough circumstantial evidence to connect the appellant to the crime, and therefore, the prosecution has failed to prove the charge against the appellant, and the learned High Court Judge was misdirected in his judgment as to the question of identity.

In this regard, I find that the learned High Court Judge has gone on the basis that there was sufficient light for the PW-01 and 02 to identify the person who came inside their house and caused cut injuries to the deceased, and has determined that based on that positive identification, they have identified the appellant at the identification parade subsequently. The learned High Court Judge has chosen to brush aside the witness's failure to inform the police that they knew the appellant well before the incident as not an important factor.

The learned High Court Judge has justified the PW-01's failure to mention to the police that she knew the appellant well, by considering a portion of the evidence of PW-01 where she has stated that she knew the appellant as Chuti Ayya. It appears that the learned High Court Judge has failed to adequately address and consider the overwhelming evidence placed before the trial Court to the effect that the appellant was well known to both the eyewitnesses as he and his family used to be their neighbours over a long period of time. If that fact was correctly considered, there would have been no basis for the learned High Court Judge to determine as to the reliability of the evidence by PW-01 and 02 in that regard.

It is also clear that both PW-01 and 02 has stated in their evidence they failed to identify the attacker, other than describing his physical features, which goes on to show that they have failed to identify the attacker as the appellant although they were eyewitnesses to the incident. That clearly explains the reason why they have failed to name him as the person who came inside their house and caused cut injuries to the deceased when they made their statements to the police a few hours after the incident.

According to the evidence of PW-10, the investigating officer, he has obtained an information about a possible suspect only after he inquired from the villagers, and not because of what the two eyewitnesses told him. He has arrested the appellant based only on the information he received from an informant, which goes on to show that the PW-01 and 02 have failed to identify the appellant at the time of the incident. Once the arrest of the appellant becomes common knowledge, there would be no difficulty for PW-01 and 02 to identify him at the identification parade because of the previous knowledge they had as to his identity.

For the reasons as considered above, I am of the view that the learned High Court Judge was misdirected when it was determined that the two eyewitnesses had positively identified the appellant at the time of the incident.

Accordingly, I find merit in the 1st ground of appeal as to the way the learned High Court Judge has considered the earlier mentioned evidence.

However, it needs to be noted that this is a matter where the prosecution has relied on several pieces of circumstantial evidence against the appellant, besides the eyewitness account of the incident. Therefore, I am of the view that just because the learned High Court Judge was misdirected of the fact that the relevant eyewitnesses have identified the appellant at the time the crime was committed, it would not mean that the prosecution has failed to prove the charge against the appellant in view of the circumstantial evidence.

Before I would proceed to consider the circumstantial evidence in order to determine whether the said evidence has proved the charge beyond reasonable doubt against the appellant, I would now go on to consider the 2nd ground of appeal urged on behalf of him.

The 2nd Ground of Appeal:-

In the 2nd ground of appeal, the contention appears to be that the learned High Court Judge failed to consider the alibi taken up by the appellant and thereby failed to properly evaluate the defence evidence.

Although the learned Counsel for the appellant has stated that the appellant's defence of alibi was not properly considered, it needs to be mentioned that an alibi is a question of fact. Although a misdirection may occur due to the fact of an alibi being mentioned in our legal texts and judgments as a defence of an alibi, once an alibi is taken up, it becomes imperative for a trial Judge to consider that fact in relation to the other evidence led before him, be it by the prosecution or by the defence, and decide whether a doubt has been created as to the prosecution case because of such an alibi.

Considering an alibi, which is not a general or special exception, **T.S. Fernando, J.** in the case of **Martin Singho Vs. Queen 69 CLW 21 at page 22**, remarked as follows;

"*As this Court has pointed out on many occasions in the past, where an accused person is not relying on a general or special exception contained in the Penal Code, there is no burden on him to establish any fact. In this case, the appellant not relying on any such exception; even if the Jury declined to believe the appellant's version, he was yet entitled to be acquitted on the charge if his version raised in the mind of the Jury a reasonable doubt as to the truth of the prosecution case.*"

At this juncture, I must emphasize that any alibi taken up by an accused must be to the effect that there was no possibility, given the facts of the matter, for him to be present at the scene of the crime or participate in the crime.

In the case of **The King Vs. Marshall (1948) 51 NLR 157 at 159, Dias, J.** having considered several legal principles and judgments in relation to how the trial Court should test an alibi, observed as follows;

"An alibi is not an exception to criminal liability like a plea of private defence or grave and sudden provocation. An alibi is nothing more than an evidentiary fact, which like other facts relied on by an accused must be weighed in the scale against the case for the prosecution. In a case where an alibi is pleaded, if the prisoner succeeds thereby in creating a sufficient doubt in the minds of the Jury as to whether he was present at the scene at the time the offence was committed, then the prosecution has not established its case beyond all reasonable doubt, and the accused is entitled to be acquitted- ***Rex vs. Chandrasekera (1942) 44 NLR at page 126*** *and* ***Rex vs. Fernando (1947) 48 NLR at page 251.*** *Although the learned Judge did not deal with the alibi in this way, a study of the evidence shows that no miscarriage of justice resulted thereby. There are contradictions between the evidence of the second accused and his witness Premasiri which may have induced the Jury to reject the alibi. In regard to the case against the second accused, there was ample evidence before the Jury, which, if believed, justified the verdict which they returned. We*

therefore think the conviction of the second accused is justified and we dismiss his application."

I am not in a position to agree with the submission of the learned Counsel for the appellant that the learned High Court Judge has not properly considered the alibi.

Although notice of alibi has been given as required by the section 126A of the Code of Criminal Procedure Act, no such position appears to have been taken when the relevant witnesses were giving evidence before the trial Court.

When the appellant was called upon for his defence, he has stated something that resembles an alibi to the effect that he could not have been at the place of the crime at the given time. However, what he has stated in his dock statement is not something that there was no possibility under any circumstances for him to be at the place of the crime around the midnight of 02-12-2012.

As pointed out correctly by the learned Deputy Solicitor General (DSG), his dock statement in fact, cuts across the alleged alibi by him. What he has stated in his dock statement, was that he left his workplace after 10.00 p.m. and left Colombo around midnight and reached home around 6.30 in the morning of the following day, which cannot under any circumstances be accepted as an alibi.

However, since notice has been given of an alibi, the prosecution has taken steps to lead evidence to show that such an alibi cannot be possible. There is no denial that the mobile phone mentioned in the call records provided by the service provider marked P-14 belongs to the appellant. In fact, the wife of the appellant in giving her evidence before the Court has admitted that it was she who gave the phone to the appellant and the phone was taken charge by the police when he was arrested,. The phone records clearly establish the possibility for the appellant being at the place of crime at or about the time the witnesses say they saw a tall person wearing dark clothes escaping their home after attacking the deceased.

I find that the learned High Court Judge in his judgment has clearly considered these facts and has come to a correct finding that the alleged alibi has not created any doubt as to the prosecution case, and in fact, the prosecution has proved through phone call records sufficient circumstantial evidence to establish that there was high a possibility for the appellant to be at the place of the crime when this incident occurred.

Accordingly, I find no merit in the 2nd ground of appeal urged on behalf of the appellant.

Having determined the grounds of appeal urged, I will now proceed to consider whether there was sufficient circumstantial evidence before the High Court to come to a finding independently to the determination by the learned High Court Judge as to the identity of the appellant at the scene of the crime, so that the conviction can be justified.

Our Courts have consistently determined as to the manner in which evidence led before a trial Court should be considered in this regard.

In the case of **The King Vs. Abeywickrama 44 NLR 254** it was held:

> Per **Soertsz, J.**,
>
> *"In order to base a conviction on circumstantial evidence, the jury must be satisfied that the evidence was consistent with the guilt of the accused and inconsistent with any reasonable hypotheses of his innocence."*

In the case of **Don Sunny Vs. The Attorney General (1998) 2 SLR 01**, it was held:

1) *When a charge is sought to be proved by circumstantial evidence the proved items of circumstantial evidence when taken together must irresistibly point towards only inference that the accused committed the offence. On consideration of all the evidence the only inference that can be arrived at should be consistent with the guilt of the accused only.*

2) *If on a consideration of the items of circumstantial evidence, if an inference can be drawn which is consistent with the innocence of the accused, then one cannot say that the charges have been proved beyond reasonable doubt.*

3) *If upon consideration of the proved items of circumstantial evidence the only inference that can be drawn is that the accused committed the offence, then they can be found guilty. The prosecution must prove that no one else other than the accused had the opportunity of committing the offence. The accused can be found guilty only if the proved items of circumstantial evidence is consistent with their guilt and inconsistent with their innocence.*

However, when considering the circumstantial evidence, what has to be considered is the totality of the circumstantial evidence before coming to a firm finding as to the guilt of an accused, although each piece of circumstantial evidence when taken separately, may only be suspicious in nature.

In the case of **King Vs. Gunaratne 47 NLR 145**, it was held:

> *"In a case of circumstantial evidence, the facts given in evidence may, taken cumulatively, be sufficient to rebut the presumption of innocence, although each fact, when taken separately, may be a circumstance only of suspicion.*
>
> *The jury is entitled to draw inferences unfavourable to an accused where he is not called to establish an innocent explanation of evidence given by the prosecution, which, without such explanation, tells for his guilt."*

In the case of **Regina Vs. Exall (176 English Reports, Nisi Prius at page 853)**, Pollock, C.B. considering the aspect of circumstantial evidence remarked;

> *"It has been said that circumstantial evidence is to be considered as a chain, and each piece of evidence as a link in a chain, but that is not so, for then, if any one link broke, the chain would fall. It is more like of a rope composed*

of several codes. One strand of the rope might be insufficient to sustain the weight, but stranded together may be quite of sufficient strength."

It was observed in the case of **Karunaratne Vs. Attorney-General (2005) 2 SLR 233,**

Per **Jagath Balapatabendi, J.,**

"*The primary advantage of circumstantial evidence is that the risk of perjury is minimized since it, unlike direct evidence, does not emanate from the testimony of a single witness. It is therefore more difficult to fabricate circumstantial evidence, than it is to resort to falsehood in the course of giving direct evidence.*

There is no principle of the law of evidence which precludes a conviction in a criminal case based entirely on circumstantial evidence. There are no uniform rules for the purpose of determining the probative value of circumstantial evidence. This depends on the facts of each case."

As I have determined earlier, although PW-01 and 02 had been eyewitnesses to the incident, they have failed to identify the appellant as the perpetrator at the scene of the crime. However, it is clear that they have observed the attacker as a lean, tall person, who was wearing dark-coloured clothes, before he escaped after attacking the deceased. It is clear that after receiving the information about the crime in the early morning of 02-12-2012, the OIC of the Aranaganwila police has taken prompt steps to investigate the matter, which has resulted in him coming to know of a possible suspect, and the arrest of the appellant in the early hours of 03-12-2012.

The investigating officer has taken prompt steps to record a statement from him and has recovered several items including a knife under a culvert in the main road near the house of the appellant. I find that when considering the place where the said items have been recovered, if not for the exclusive knowledge of the appellant as to its whereabout, the items would not have been recovered.

Among the recovered items, a pair of rubber gloves and some black coloured clothes have also been recovered which matches the description of the clothes worn by the attacker when the eyewitnesses saw him.

The mobile phone call records led in evidence also establish a high possibility of the appellant being in the area where the crime occurred.

The knife recovered as a result of the statement made by the appellant has been sent for a DNA Report and the DNA Report marked P-18 clearly establishes the fact that the blood found on the knife had matched the blood of the deceased through DNA analysis, which goes on to show that the knife recovered as a result of the statement made by the appellant had been the knife used in committing the crime.

The JMO in his evidence has opined that the cut and stab injuries he observed on the body of the deceased could be committed by using the knife marked P-8, which was the knife sent for DNA analysis.

Although a motive to commit a crime is not a matter that should be established in a criminal case, I find that this is a matter where a motive can also be clearly identified. As I have considered before, even the wife of the appellant has admitted that the deceased had a relationship with her and they met 3 days prior to this incident, where she was assaulted by her own brother accusing her of a clandestine affair. The wife of the deceased has admitted this fact as well.

It is highly probable that the appellant may have come to know about the incident that occurred 3 days before, which may provide a possible motive for the offence.

It is my considered view that when taking all these circumstantial evidence as a whole, the only conclusion that can be reached is that it was the appellant who had committed the crime and no one else. I am of the view that the proved items of circumstantial evidence are consistent with his guilt and inconsistent with his innocence.

Accordingly, I am of the view that although there was a misdirection by the learned High Court Judge as to the establishment of the identity of the appellant on the basis that the two eyewitnesses had identified him at the time of committing the crime, it does not have a vitiating effect on the conviction as the prosecution has proved its case beyond reasonable doubt by way of circumstantial evidence.

It is well-settled law that any judgment or an order need not be reversed because of any error, defect or irregularity unless such defect or irregularity has prejudiced the substantial rights of the parties or occasioned a failure of justice.

The proviso to Article 138 of The Constitution, which provides appellate jurisdiction to the Court of Appeal to determine appeals from the matters determined by the High Court or other Courts of First Instance reads as follows:

> **Provided that no judgment, decree or order of any Court shall be reversed or varied on account of any error, defect or irregularity which has not prejudiced the substantial rights of the parties or occasioned a failure of justice.**

Accordingly, the appeal is dismissed as I find no basis to interfere with the conviction and the sentence dated 09-02-2022 by the learned High Court Judge of Ampara.

Judge of the Court of Appeal

P. Kumararatnam, J.

I agree.

Judge of the Court of Appeal