

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

**In the matter of an Appeal in terms of
Section 320 of the Code of Criminal
Procedure Act No. 16 of 1979.**

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

Court of Appeal
Case No. CA HCC 02/2025

Complainant

Vs.

High Court of Anuradhapura
Case No. HC/90/12

Somarathne Karunarathne

Accused

AND NOW BETWEEN

Somarathne Karunarathne

Accused-Appellant

Vs.

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

Complainant-Respondent

Before: **B. Sasi Mahendran, J.**
 Amal Ranaraja, J.

Counsel: U.R. de Silva, P.C. with Pradeepa Kaluarachchi, Thilini
 Atapattu, Chathura Weeramantry, Sanuri Dissanayake and
 Hansani Pathirana for the Accused-Appellant.

Maheshika Silva, D.S.G. for the Respondent.

Argued on: 13.03.2026

Judgment on: 29.04.2026

JUDGMENT

AMAL RANARAJA, J.

1. The accused appellant hereinafter referred to as the “appellant” has been indicted in the *High Court of Anuradhapura* in High Court case number HC/90/12.

The charge in the indictment is as follows:

That on or about February 09, 2007, in the District of *Anuradhapura*, within the jurisdiction of this Court, the appellant committed the murder by causing the death of one *Punchibandage Asantha*, and have thereby committed an offence punishable under section 296 of the Penal Code.

2. At the conclusion of the trial, the learned High Court Judge has convicted the appellant of the charge and sentenced him to death.

3. The appellant aggrieved by the conviction, disputed judgment together with the sentencing order, has preferred the instant appeal to this Court.

Case of the prosecution

4. At the time of the incident, the deceased had been married to the daughter of PW01. Both the deceased and the appellant have resided in the same village of "Athpathniya".
5. On the day of the incident, the deceased has returned home in the afternoon, has had lunch and subsequently left to release the goats from their pen. He then has proceeded towards a by-road bordering his property heading in the direction of a community center building.
6. PW01 has also observed the appellant initially moving towards his own house and then continuing in the same general direction that the deceased had taken. Approximately ten minutes later, PW01 has heard two gunshots being fired from the area where both the deceased and the appellant had gone. Upon hearing the shots, PW01 has immediately gone to the by-road and proceeded in the direction from which the gunshots were heard.
7. As she approached a tamarind tree situated by the roadside, she has discovered the deceased lying on the ground. The appellant has been observed attempting to turn the deceased's body. When PW01 inquired about what had transpired, the appellant had allegedly confessed to her that he had shot the deceased (එතනට ගියාට පස්සේ කරුණාරත්න පුතා කිව්වා "නැන්දා කෑගහන්නේ නැතුව ගෙදර යන්න. නියමම වැඩේ දුන්නා මීන්" කියලා කිව්වා. කියලා තුවක්කුවක් අරගෙන ගියා).

8. Following this statement, the appellant has departed from the scene with his firearm. Sometime later, the appellant has arrived at the chena belonging to PW05. He then has confessed to PW05 that he had shot the deceased and subsequently invited PW05 to go see the incident. (ඒ ගමන මට කිව්වා "අසන්නට වෙඩි තියලා මම මේ එන්නේ" කියලා කිව්වා. "මාමා ගිහින් බලන්න" කිව්වා.). After drinking some water at the chena, the appellant has then departed.
9. PW12, *Dr. Ajith Jayasena, Consultant Judicial Medical Officer* has conducted the post-mortem examination of the deceased. The resulting post-mortem report has been subsequently tendered as evidence and marked පැ04.

Case of the appellant

10. The appellant has maintained that he was in his chena when he learnt of the deceased being shot dead. Subsequently, he has also become aware that he was being suspected of committing the death of the deceased. Due to this suspicion, the appellant has left his service weapon at his father's residence. He has then traveled to a friend's house in *Thambuththegama* where he has spent the night. The following day, the appellant has surrendered to the police. He has consistently denied any involvement in the killing of the deceased.

Ground of appeal

11. When the matter was taken up for argument, the learned President's Counsel appearing on behalf of the appellant urged the following ground of appeal:
 - i. The learned High Court Judge has failed to properly evaluate the evidence of PW01, PW05 and PW14

12. The learned President's Counsel for the appellant has contended that PW01 and PW05 are not credible witnesses. To support this assertion, the court's attention has been directed to discrepancies within their narratives and testimonies.
13. Regarding PW01, upon hearing gunshots, she has hurried along the by-road in that direction. When PW01 had arrived near a tamarind tree by the by-road, she has seen the deceased fallen on the ground and the appellant attempting to turn the body. When PW01 had inquired as to what had happened, the appellant has replied "he had given the works" ("නියමමට වැටෙව් දුන්නා ඕන්") then gathered his firearm and left the scene.
14. While the appellant's purported confession to PW01 is a material fact, the other details such as PW01 observing the deceased leave the house, the deceased's actions prior to leaving and whether PW01 could have seen the appellant follow the deceased though relevant to the broader context are not deemed material to the specific argument regarding witness credibility.
15. Furthermore, the contradictions V1 and V2, refer to an incident in which PW01 was purportedly involved before the gunshots were heard. However, these contradictions do not dispute that PW01 had arrived at the shooting scene or that she had communicated with the appellant. Further, such witness has also not specifically stated that the deceased's body was on the by-road as the learned President's Counsel for the appellant has attempted to portray.
16. Regarding PW05, the contradiction identified as V9 concerns the precise activity in which PW05 was engaged in i.e. cleaning a under growth or simply building a hut. This variation however relate only to the nature of

the task and not to his whereabouts. Crucially, it does not disprove his presence at his chena at the time the appellant purportedly met him there and confessed to shooting the deceased.

17. Furthermore, witnesses PW01 and PW14 *Police Constable 33555 Herath* have consistently testified that the deceased's body was located close to the community centre.

18. A discrepancy in a witness testimony is relevant only if it is material. Minor inconsistencies, that do not strike at the heart of the evidence may be disregarded and should not by themselves lead a court to reject the testimony.

19. A material discrepancy is one that affects a central fact in dispute or undermines the witness's credibility on a substantive point. It is the kind of inconsistency that could reasonably alter the outcome of the case. Human perception and recollection are inherently imperfect. People often defer on peripheral details, especially when recalling stressful events. Courts recognize this reality. Insisting on absolute consistency would unfairly disqualify truthful witnesses whose memory is naturally vary on insignificant points. Judges weigh the inconsistency against the testimony as a whole, the corroborating evidence, etc. Only when a contradiction concerns a pivotal element, such as the identity of a perpetrator or the sequence of decisive acts does it warrant rejection of the evidence.

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

“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 truly material to the facts in issue”

21. In the case of *Mahathun and Others Vs. The Attorney General* [2015] 1 SLR 74, H.N.J. Perera, J. (as he was then), has held:

“(1) When faced with contradictions in a witness 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.

(2) Too great a significance cannot be attached to minor discrepancies, or contradictions.

(3) What is important is whether the witness is telling the truth on the material matters concerned with the event.

(4) Where evidence is generally reliable much importance should not be attached to the minor discrepancies and technical errors.

(5) The Court of Appeal will not lightly disturb the findings of a trial judge with regard to the acceptance or rejection of testimony of a witness unless it is manifestly wrong.”

22. Immediately after the appellant’s arrest, an investigating officer has recorded a detailed statement. Acting upon the information disclosed therein, the investigators have recovered a T56 assault rifle together with its magazine. The magazine has contained twenty eight live rounds,

implying that two rounds had already been discharged. The officers who attended the crime scene including PW14 *Police Constable 33555 Herath* have collected two spent cartridge casings. Both the casings and the recovered T56 rifle have been forwarded to the Government Analyst for ballistic examination. In report 09, the analyst has determined that the recovered casings have been fired from the very same T56 rifle submitted for analysis, thereby linking the weapon directly to the shots fired at the scene.

23. The prosecution has established that the investigating officers have maintained meticulous contemporaneous notes of every stage of the involvement, carefully recording the matters they handled and the items uncovered. These records made in the ordinary course of their duties and preserved without alteration, dispel any suggestion that the investigation was manipulated to implicate the appellant. Instead, the notes demonstrate a transparent methodical investigation driven solely by the evidence that emerged.
24. Further, *Dr. Jayasena* (PW12) following the post-mortem examination has opined that the deceased's death was caused by a single gunshot injury to the abdomen area. This injury has been necessarily fatal. He has also stated that the firearm used in the assault is similar to a T56 rifle.
25. The circumstances outlined above align closely with the narratives provided by PW01 and PW05. These accounts substantiate the assertion that the incident described by the referenced witnesses has indeed occurred and point towards the appellant's commission of the offence.

26. In the case of *Attorney General v. Potta Naufer & others* [2007] 2 SLR 144 it was held that:

“When relying on circumstantial evidence to establish the charge of conspiracy to commit murder and the charge of murder, the proved items of circumstantial evidence when taken together must irresistibly point towards the only inference that the accused committed the offence”.

27. In those circumstances, I am not inclined to interfere with the conviction, disputed judgment together with the sentencing order and proceed to affirm the same. I dismiss the appeal and make no order regarding costs.

Appeal dismissed.

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

Judge of the Court of Appeal

B. SASI MAHENDRAN, J.

I agree

Judge of the Court of Appeal