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

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

Complainant

Court of Appeal Case No: CA/HCC/0008/2026

High Court of Kalutara
Case No. HC/887/07

Vs,

Ranaweera Aarachchige Saman Kumara

Accused

And Now Between

Ranaweera Aarachchige Saman Kumara

Accused-Appellant

Vs,

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

Complainant-Respondent

Before: **Amal Ranaraja, J.**

Dr. Sumudu Premachandra, J.

Counsel: Nirmal Mirahawatte for the Accused-Appellant

Riyaz Barry, SDSG for the State.

Argued on: 03.09.2026

Judgment on: 25.09.2026

Judgment

Amal Ranaraja. J,

1. The accused-appellant (hereinafter referred to as the 'appellant') has been indicted in the High Court of Kalutara in Case No. HC-887/07. The charges in the indictment are as follows;

    01. That on or around the 18th of April, 2001, within the jurisdiction of this Court in *Kekirihena*, you have caused the death of one *Athukoralage Disna Kumari;* thereby, have committed murder, an offence punishable under Section 296 of the Penal Code.

    02. In the time, location and course of action as the above first charge, you have committed rape against one *Athukoralage Disna Kumari;* thereby, you have committed an offence punishable under Section 364(1) of the Penal Code of Sri

Lanka as amended by Penal Code (Amendment) Act No. 22 of 1995.

03. In the time, location and course of action as the above first charge, you have robbed a gold chain and pendant in the possession of *Athukoralage Disna Kumari,* valued at about Rs.8000.00; thereby you have committed an offence punishable under Section 380 of the Penal Code of Sri Lanka.

2. At the conclusion of the trial, the learned High Court Judge has convicted the appellant of the first charge and acquitted him of the second and third charges. Upon convicting the appellant of the first charge, he has been sentenced to death.

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

Case of the Prosecution

4. PW09 was the husband of the deceased. They have had a child together and have been living in an area known as *Kekirihena*. The deceased at that time had been employed at a garment factory in *Horana* and travelled to work by bus. To reach the bus stop, she has had to walk approximately 1.5 km along a by-road from her house.

5. On the day in question, the deceased has not returned after work. A search has been subsequently conducted and her body found at a location beside the road leading from *Kekirihena* to *Udugamakanda*. A complaint has been lodged with the police, an investigation commenced, and the appellant has been taken into custody, being accused of committing the offences stated in the charges.

6. It is alleged that an item of clothing worn by the deceased was recovered following a statement made by the appellant to the police, and upon his pointing out its location. Items of jewellery of the deceased have also been recovered after being unearthed from the appellant's garden.

Case of the Appellant

7. The appellant has maintained that he was not involved in the incident alleged in the charges.

8. Section 27 of the Evidence Ordinance No. 14 of 1895 (as Amended) provides as follows;

> ***"27.***
>
> *(1) Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered may be proved.*
>
> *(2) Subsection (1) shall also apply mutates mutandis, in the case of information received from a person accused of any act made punishable under the Forest Ordinance, or the Excise Ordinance, when such person is in the custody of a forest officer or an excise officer, respectively."*

9. As such, Section 27 of the Evidence Ordinance No. 14 of 1895 (as Amended), allows a specific portion of a statement made by a person accused of an offence, in police custody to be admitted as evidence, if it directly leads to a discovery/recovery of a physical fact or item. Although Sections 25 and 26 of the Evidence Ordinance No. 14 of 1895 (as Amended), state that confessions made to a police officer or while in

police custody are generally not admissible, Section 27 of the Ordinance acts as a vital exception.

10. When any fact deposed to is discovered, in consequence of information received from a person accused of an offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered/recovered may be proven.

11. The key requirements for the application of the provisions in Section 27 of the Evidence Ordinance No. 14 of 1895 (as Amended), are that the accused must be formally in the custody of a police officer when giving the information. Only the exact words that point directly to the discovered object or place are allowed to be produced as evidence. Though, general confessions or unrelated admissions are barred, physical facts such as a hidden weapon, stolen property or an item of clothing worn by a victim must be newly found, as a direct result of the information.

12. As there had been no eyewitnesses to the incident, forming the subject matter of the charges in the case at hand, the prosecution has sought to establish its case through circumstantial evidence. In doing so, among others, it has relied on evidence concerning recoveries, allegedly made under Section 27 of the Evidence Ordinance No. 14 of 1895 (as Amended), based on the information in the statements made by the appellant to a police officer and by the appellant's wife.

13. PW14, Police Inspector *Udaya Chinthaka Mayadunne*, testifying in Court has stated as follows;

ප්‍ර. පසු අවස්ථාවක දී මෙම යට ඇඳුම මිය ගිය ක්‍රිෂ්ණා කුමාරි නමැත්තියට අදාළව අපරාධය සිදු වූ අවස්ථාවේ දී ඇඳ සිටි ඇඳුම ලෙස නිදර්ශනය කරනු ලැබුවා ද?

උ. මිය ගිය අයගේ ස්වාමි පුරුෂයා විසින් ප්‍රකාශයක් ලබා දී තිබුනා එය හඳුනා ගත් බවට.

ප්‍ර. ඒ අනුව මහත්මයා ප්‍රකාශ කලා 2011.04.19 තමයි මෙම වුදිත තැනැත්තාගෙන් ප්‍රකාශය අරගෙන තිබෙන්නේ කියලා ?

උ. ඔව්.

ප්‍ර. ඒ කියේ පැයට ද?

උ. පැය 17.00 ට මෙම අයගේ ප්‍රකාශය මා විසින් සටහන් කරගෙන තිබෙනවා.

ප්‍ර. ඒ අනුව වුදිතගේ ප්‍රකාශය ඔස්සේ සහ වුදිතගේ මග පෙන්වීම මත එකී කාන්තා යට ඇඳුම සොයා ගනු ලැබුවා ?

උ. ඔව්.

ප්‍ර. එසේ සොයා ගැනීමට ආධාර කර ගත්ත වුදිතගේ ප්‍රකාශයේ සහතික කරන ලද උධෘත කොටසක් මහත්මයා අද ගරු අධිකරණයට රැගෙනවිත් තිබෙනවා ද?

උ. ඔව්.

ප්‍ර. මේ භාණ්ඩය සොයා ගන්න මහත්මයා කීයට ද නිලධාරීන් සමඟ ගියේ ?

උ. මා සැකකරුගේ ප්‍රකාශ සටහන් කිරීමෙන් පසුව ඔහුත් සමඟ 2007.04.19 වන දින 15.40 පැයට කැකිරිහේනේ දී මෙම මරණකාරියගේ යයි සිතනු ලබන යට ඇඳුම සොයා ගත්තා.

Vide Pages 277 & 278 of the Brief

14. Police Inspector *Mayadunne*, as per the testimony reproduced above, has recorded the appellant's statement at 17 hours on 19th April 2011. However, the item of clothing belonging to the deceased has been recovered earlier that day at 15.40 hours. This discrepancy in timing raises an issue as to whether the recovery was made pursuant to a statement or information provided by the appellant, while he was accused of an offence and in police custody.

15. It also raises the question of whether the recovery complied with the principles set out in Section 27 of the Evidence Ordinance No. 14 of 1895 (as Amended), and whether the fact thereby discovered was admissible in evidence. The appellant has contended that this evidence

has been admitted in violation of the principles set out in Section 27 of the Evidence Ordinance No. 14 of 1895 (as Amended). Upholding the highest traditions of the office, the learned senior Deputy Solicitor General conceded the validity of that contention.

16. Furthermore, a recovery made under Section 27 of the Evidence Ordinance No. 14 of 1895 (as Amended) establishes that the information given by a person accused of an offence, and in police custody, was true and the person providing it had knowledge of the existence and location of the fact discovered.

17. In the present case the items of jewellery have been recovered based on the information provided by the appellant's wife. Therefore, although her knowledge may be inferred, such knowledge cannot be imputed to the appellant.

18. In the case of *H.M Heen Banda vs. The Queen 75 NLR 54*, Sirimane J, held,

> *"Where part of a statement of an accused person is put in evidence under section 27 of the Evidence Ordinance, it is the duty of the trial Judge to explain to the Jury that such a statement is only evidence of the fact that the accused knew where the article discovered could be found, and nothing more."*

19. Similarly, in *Ranasinghe vs. Attorney-General [2007] Sri LR 218*, Sisira de Abrew J, has held,

> *"...discovery in consequence of a section 27 statement only leads to the conclusion that the accused had the knowledge as to the weapon being kept at the place from which it was detected."*

20. In the case of *Samson Atygala vs. Attorney General [1986] 1 Sri. LR 390*, Bandaranayake J, has held,

> *"For the purposes of s.27 of the Evidence Ordinance the person making the statement should be a person accused of an offence, and be in police custody"*

21. *Dr. J.P. Subasinghe*, a District Medical Officer, has examined the appellant following his arrest and observed several superficial cuts on the appellant's skin. *Dr. Subasinghe* has opined that three of those cuts have been caused by fingernails. The learned High Court Judge relying on this evidence has inferred that those superficial cuts on the skin of the appellant have been caused by the fingernails of the deceased.

22. In that regard *Dr. M. Vidanapathirana,* who holds a MD in Forensic Medicine, and conducted the postmortem examination of the deceased, has observed certain material beneath the deceased fingernails. However, no fingernail scraping have been obtained or forwarded for analysis. Had such samples been collected and analysed, investigators may have been able to confirm or exclude the presence of the appellant's DNA in the material. The appellant has contended that his omission by the investigators meant that there was no cogent evidence to establish that the deceased had engaged in a struggle with the appellant. The learned senior Deputy Solicitor General did not dispute that contention.

23. The learned High Court Judge, in delivering the disputed judgement has disregarded the matters discussed above and therefore, misdirected himself on the law as well as the facts.

24. In those circumstances, I am inclined to interfere with the conviction, disputed judgement together with the sentencing order and proceed to acquit the appellant of the first charge and also set aside the disputed judgement together with the sentencing order.

25. I make no order regarding costs.

Appeal allowed.

26. The Registrar of this Court is directed to send this Judgement to the High Court in *Kalutara* for compliance.

Judge of the Court of Appeal

Dr. Sumudu Premachandra, J.

I agree

Judge of the Court of Appeal