

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

**In the matter of an Appeal under
Section 331 of the Code of Criminal
Procedure Act No. 15 of 1979.**

The Democratic Socialist Republic of Sri
Lanka

Complainant

CA HCC 0164/23

High Court of Kegalle

Case No. HC 3991/19

Vs.

Rankoth Pedilage Chaminda Gunarathna

Accused

AND NOW BETWEEN

Rankoth Pedilage Chaminda Gunarathna

Accused-Appellant

Vs,

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

Respondent

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

Counsel: Lelani Sirisena, Assigned Counsel for the Accused-Appellant.

Suharshie Herath, D.S.G. for the Respondent.

Argued on: 20.03.2026

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 Kegalle in Case No. HC 3991/19. The charge in in the indictment is as follows;

01. That on around the 25th of August, 2011, in *Palapoluwa, Yattegoda*, within the jurisdiction of this Court, you have caused the death of one *Muthugalage Gnanavathi*, thereby committing an offence punishable under Section 296 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 charge and sentenced him to death. The appellant aggrieved by the conviction, disputed judgement, together with the sentencing order has preferred the instant appeal to this Court.

Case of the Prosecution

3. At the time of the incident, the deceased, identified as an elderly lady, has been living alone in her residence. Her son, also referred to as PW01, has discovered her lifeless body lying on a bed at her residence when he visited her. Upon this discovery, the police had been immediately informed and a formal criminal investigation initiated. Scene of Crime Officer (SOCO) personnel have been dispatched to the location to secure and examine the scene, gather potential forensic evidence and document their findings.
4. As a part of the forensic examination, several crucial items have been collected for DNA testing. These have included a men's vest, the underskirt the deceased was wearing, multiple hair shafts, and two vaginal swabs taken from the deceased. Additionally, a blood sample from the appellant has also been submitted for comparative DNA analysis.
5. Subsequent DNA analysis of these samples has revealed significant findings. The DNA profile obtained from the vaginal swabs and from a stain present on the men's vest have matched the DNA profile derived from the appellant's blood sample. The comprehensive report detailing this DNA analysis has been produced as evidence in the proceedings and marked *ex 02*.
6. Furthermore, *Dr. Channa Perera*, a Consultant Judicial Medical Officer (JMO), identified as PW12, has conducted the post-mortem examination of the deceased. During the examination, *Dr. Perera* has

determined that the cause of death was manual strangulation. He has also noted evidence consistent with very recent vaginal penetration. The official post-mortem report containing these findings has been also produced as evidence and marked *ex 12*.

Case of the Appellant

7. The appellant has maintained that he was taking medication for a mental ailment during the period in question. On the day of the incident he had consumed alcohol, played cards and subsequently gone to the residence of the deceased that night. While denying any involvement in the incident concerning the deceased, he has also stated that he cannot recall his mental state or what transpired in his mind at that time asserting that he was not in his proper senses.
8. In criminal proceedings, the prosecution bears the burden of proving guilt beyond reasonable doubt. Ordinarily, an accused may remain silent and need not offer any evidence. An exception arises however, when the prosecution's case rests on a chain of strong, coherent circumstantial evidence that points directly to the accused. In such circumstances, courts have held that the accused is under a duty to explain or rebut the facts. Failure to do so can justify an adverse inference. In *Sumanasena v Attorney General 1999 3 SLR 137*, Jayasuriya J has held,

“We hold that the learned Judge, in these circumstances, was entitled to draw the necessary inferences and compelling inferences from the circumstance, that is from the failure of the accused to offer an explanation of the highly incriminating circumstances established and in the face of the strong case established against him by the prosecution.”

9. The learned High Court Judge has noted the highly incriminating circumstances tendered by the prosecution. She has also considered the appellant's confession that he had gone to the deceased's residence before her lifeless body was discovered by her son, PW01. Also, the appellant's failure to explain or rebut such incriminating circumstances. Consequently, based on this evidence, the learned High Court Judge has made certain adverse inferences, and the appellant has been convicted of the offence stated in the charge.
10. The learned Counsel for the appellant submitted that at the material time the appellant was suffering from mental unsoundness and was therefore, incapable of understanding the nature of his act or of knowing that the act was either wrong in itself or contrary to law. In advancing this contention, the learned counsel for the appellant, has attempted to rely on the legal test for insanity embodied in the M'Naghten rules and Section 77 of the Penal Code of Sri Lanka
11. The defence of insanity in Sri Lanka, is governed by Section 77 of the Penal Code of Sri Lanka. It provides that a person is not criminally responsible if he was suffering from "unsoundness of mind" at the time of the offence making him incapable of knowing the nature of the act or that it was wrong or contrary to law.

Section 77 of the Penal Code has provided as follows;

77. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

12. Section 77 of the Penal Code of Sri Lanka, defines the legal standard for insanity and as stated earlier is based on the English M’Naghten rules, where the focus is on cognitive capacity (knowing right from wrong).

13. Section 105 of the Evidence Ordinance mandates that the accused must prove the existence of circumstances that bring his case within the exception of unsoundness of mind. The burden lies on the accused to prove unsoundness of mind on a balance of probability. Just raising a reasonable doubt is not sufficient. The unsoundness of mind must exist precisely at the time the offence was committed.

14. In the case of *Nandasena v Attorney General 2007 1 SLR 237*, Ranjith Silva, J, has stated,

“When a defence of insanity is taken under section 77 of the Penal Code there must be evidence to prove that the accused was insane, and this fact had to be proved on a balance of probability like in a civil case. It is the burden of the accused to prove that he was incapable of (1) knowing the nature of the act, (2) that he is doing what is either wrong or contrary to law.”

15. Additionally, in the case of *Perera v The Republic of Sri Lanka 1978-79 2 SLR 84*, Colin-Thome J, has stated,

“The law is the same in Sri Lanka. In The King v. Don Nikulas Buiya (2), Howard, C.J. held, having in mind both section 77 of the Penal Code read with section 105 of the Evidence Ordinance, that where in a charge of murder a plea of insanity is set up, insanity must be clearly proved to the satisfaction of the jury. The burden is discharged by an accused person who tenders a preponderance or balance of evidence in support of such a plea.

16. In the case of *Barnes Nimalaratne v The Republic of Sri Lanka* 78 NLR 51, Weeraratne J has held that,

“In interpreting this provision our Courts have held that it is not sufficient for the defence to raise a doubt in the mind of the Jury. The defence has to establish that the accused did not know the nature of the act or in the alternative, that it was contrary to law, on a preponderance of probability or on a balance of the evidence. The burden of proof is no heavier than that resting on a plaintiff or defendant in a civil case.”

17. Courts heavily rely on medical expert testimony to establish “unsoundness of mind”. Medical reports, psychiatric assessments and testimonies from doctors are essential. Medical evidence is required to confirm a diagnosis particularly in matters like capacity assessment and criminal responsibility. The evidence must not only provide clinical diagnosis, but also explain how the condition caused the specific incapacities.

18. If specific medical reports for the time of the incident are unavailable, Courts could rely on subsequent psychiatric assessments, testimony from family or witnesses regarding the accused’s behaviour or the nature of the act itself.

19. The balance of probabilities simply means “more likely than not”. If something is more than 50% likely to be true, it meets the standard. One does not need absolute certainty or proof beyond any doubt. One just needs to show that his version of events is more believable than the opposing side’s version.

20. In the matter at hand, the appellant has stated that he was taking medication for a mental health condition during the period in question. However, this assertion does not sufficiently demonstrate that he was incapable of understanding the nature of his actions or that those actions were wrong or contrary to the law, due to unsoundness of mind. As such the appellant has not been able to establish, on a balance of probabilities, his claim of unsoundness of mind at the time the incident in question occurred. This lack of concrete evidence has ultimately not satisfied the learned High Court Judge.

21. Accordingly, I am not inclined to interfere with the conviction, disputed judgement, together with the sentencing order and I proceed to affirm the same.

22. I dismiss the appeal but make no order regarding costs.

Appeal dismissed

23. The Registrar of this Court is directed to send a copy of this judgement to the High Court in Kegalle for compliance.

Judge of the Court of Appeal

B. Sasi Mahendran, J.

Judge of the Court of Appeal

