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

In the matter of an appeal against the Judgment of the Learned High Court Judge of Rathnapura made in terms of Section 331 of the Code of Criminal Procedure Act No. 19 of 1979.

The Democratic Socialist Republic of Sri Lanka.

Complainant

Case No: **CA/HCC/019-020/2015**

High Court of Rathnapura Case No: **84/2007**

Vs

1. Dissanayake Mudiyanselage Harischandra *alias* Bani
   LDO, Samagipura, Madabadda, Balangoda.

2. Nindawaththa Gamaralalage Senevirathne *alias* Senewi
   No.15, Udakolaniya, Kalthota, Madabadda, Balangoda.

3. Kaluwitharanalage Dhanraja Bandara *alias* Weda Mahaththya,
   No.19, Sadikka Watta, Wattappala, Pilimathalawa

Accused

AND NOW

1. Dissanayake Mudiyanselage Harischandra *alias* Bani
   LDO, Samagipura, Madabadda, Balangoda.

2. Nindawaththa Gamaralalage
   Senevirathne *alias* Senewi
   No.15, Udakolaniya, Kalthota,
   Madabadda, Balangoda.

3. Kaluwitharanalage Dhanraja Bandara
   alias Weda Mahaththya,
   No.19, Sadikka Watta, Wattappala,
   Pilimathalawa

Accused - Appellants

Vs

Hon. The Attorney General,
Attorney General's Department,
No.502, Hulftsdrop St,
Colombo 12

Respondent

Before : **P. Kumararatnam, J.**

Pradeep Hettiarachchi, J.

Counsel : Indika Mallawaratchy for the 1st Accused- Appellant.

Rienzi Arsakularathne P.C. with Raveena Elpitiya for the 2nd Accused-Appellant.

Anuja Premarane, P.C, with Emal Gunasekara for the 3rd Accused-Appellant.

Anoopa De Silva, D.S.G. for the State.

Argued on : 11.12.2025

Decided on : 13.03.2026

Pradeep Hettiarachchi, J

Judgment

1. The three Accused-Appellants in this matter were indicted before the High Court of Ratnapura on three counts, namely,

    a. That on or about 18.09.2005, the 1st, 2nd, and 3rd accused conspired to commit the murder of one Prabhath Madusanka Dissanayake thereby have committed an offence punishable under Section 296 read with Sections 113(b) and 102 of the Penal Code;

    b. That at the same time and place, in the course of the same transaction, the 1st and 2nd accused have committed the murder of the said Prabhath Madusanka Dissanayake thereby committing an offence punishable under Section 296 read with Section 32 of the Penal Code; and,

    c. That at the same time and place and in the course of the same transaction, the 3rd accused aided and abetted the 1st and 2nd accused to commit the murder of the said Prabhath Madusanka Dissanayake and thereby have committed an offence punishable under Section 296 read with Section 102 of the Penal Code.

2. Since the Accused-Appellants opted for a non-jury trial, the case was heard by the Learned Judge of the High Court of Ratnapura sitting without a jury. At the conclusion of the trial, the Learned High Court Judge found the 1st and 2nd Accused-Appellants guilty on counts 1 and 2, while the 3rd Accused-Appellant was found guilty on counts 1 and 3. The Learned Trial Judge accordingly convicted them and sentenced each of them to death.

3. Being aggrieved by the said conviction and sentence, the Accused-Appellants have preferred the present appeal. The following are the grounds of appeal advanced by the respective appellants.

    For the 1st Accused-Appellant:

    a. The Learned Trial Judge has erred by deciding *Corpus Delicti* on a balance of probability;

b. Conviction which hangs on the evidence of the sole eyewitness is wholly unsafe; and,
c. Following closely on the heels of Ground 2, the trial Judge failed to assess the testimonial trustworthiness of the sole eyewitness in its correct judicial perspective.

For the 2nd Accused-Appellant:

a. The Learned High Court Judge failed to consider the credibility of PW 03 in light of the second statement made by him to the police;
b. The Learned High Court Judge failed to consider that the medical evidence contradicts PW 03 and it corroborates PW 03's earlier version;
c. Standard of proof-beyond a reasonable doubt was not considered;
d. Since PW 03 was an accomplice, the law pertaining to an accomplice's evidence was not considered;
e. The Learned High Court judge erred in law by unreasonably rejecting the defence evidence, particularly the 2nd Accused-Appellant's dock statement, which constituted an alibi; and
f. The High Court Judge conjectured on PW 03's evidence and held that the prosecution proved the case beyond a reasonable doubt.

For the 3rd Accused-Appellant:

a. The trial Judge has decided the case on the balance of probabilities;
b. The Learned Trial Judge erred in believing the 2nd statement made by PW 03; and
c. Medical evidence contradicts PW 03's testimony;

Background to the Case

4. PW 03, Kaluwala Dewage Kasun Chathuranga, was the first witness to testify for the prosecution. According to his evidence, he first met the 3rd Accused-Appellant at the residence of one of his in-laws, where the 3rd Accused-Appellant was performing an exorcism intended to protect the premises from evil spirits. Subsequently, the 3rd Accused-Appellant conducted a similar ritual at the residence of PW 03. As a result, PW 03 became acquainted with the 3rd Accused-Appellant and developed a friendly

relationship with him. Thereafter, the 3rd Accused-Appellant showed PW 03 a photograph and represented it as having been taken after the unearthing of a treasure trove.

5. Subsequently, PW 03 accompanied the 3rd Accused-Appellant to the residence of the 2nd Accused-Appellant, where the 3rd Accused-Appellant performed a similar exorcism. In September 2005, PW 03, together with the 3rd Accused-Appellant, visited the house where the deceased was residing with his parents. The 2nd Accused-Appellant had also visited the deceased's house on that occasion. During this visit, the 3rd Accused-Appellant convinced the deceased that a treasure trove was hidden inside the hill situated behind the house.

6. While the 3rd Accused-Appellant was performing rituals at the residence of the deceased, the 1st Accused-Appellant also visited the premises, and it was on that occasion that PW 03 became acquainted with the 1st Accused-Appellant. According to PW 03, the deceased too became well acquainted with the 3rd Accused-Appellant and was particularly fond of him.

7. On the day of the incident, the 3rd Accused-Appellant requested PW 03 to take the deceased to the hill where the treasure trove was believed to have been hidden. At about 10.30 a.m., PW 03 climbed the hill together with the deceased. While they were seated on a rock and looking down, the deceased suddenly fell. At that moment, PW 03 observed the 1st Accused-Appellant standing nearby with a rock in his hand. According to PW 03, he believed that the deceased had fallen as a result of a blow delivered by the 1st Accused-Appellant.

8. Thereafter, the 1st and 2nd Accused-Appellants took the deceased down the precipice and dumped him. Subsequently, the 2nd Accused-Appellant dropped a rock onto the deceased.

9. Thereafter, PW 03 became frightened and ran down the hill and informed the 3rd Accused-Appellant of what had occurred. Upon hearing this, the 3rd Accused-Appellant remarked that "It had gone wrong." The 3rd Accused-Appellant then advised PW 03 to go to a nearby house and inform the occupants that the deceased

had fallen from the hill. PW 03 accordingly conveyed the said information. Subsequently, the deceased was taken to the Kalthota Hospital, where he was pronounced dead.

10. Since all three appellants have contended that the evidence of PW 03 is unreliable and lacking in credibility, I shall first examine whether the testimony of PW 03 is indeed untrustworthy and therefore incapable of being relied upon.

11. Admittedly, PW 03 had made two statements, the first one was on 18.09.2005 and the second one was on 28.12.2005, i.e., 3 months after the incident.

12. The Prosecution has primarily relied upon the testimony of PW 03, the sole eyewitness, in support of its case. However, the said witness has taken two materially inconsistent versions in respect of the alleged incident.

13. At the initial stage, in a statement recorded by the Kalthota Police, PW 03 stated that the Deceased had slipped, fallen off the cliff, and died from the injuries sustained as a result of that fall. This version was consistently maintained by the witness in his statement to the Judicial Medical Officer, as well as during the Inquest proceedings.

14. However, after a lapse of approximately three months from the date of the alleged incident, the witness made a complaint to the DCDB (Divisional Crime Detection Branch) Ratnapura on 28.12.2005. In the second statement, he materially altered his earlier version. He alleged that he observed that the 1st Accused-Appellant carrying a large stone with which he struck the Deceased on the head, causing him to fall to the ground. Thereafter, he further alleged that the 1st and 2nd Accused-Appellants carried the Deceased a certain distance, procured another large stone, and dropped it onto the head of the Deceased.
15. PW 03 sought to justify the delay in lodging this complaint on the basis that he was in fear of the 3rd Accused-Appellant and due to alleged threats made by the 2nd Accused-Appellant.

16. Notwithstanding the foregoing explanation, a substantial number of material contradictions have been highlighted in the testimony of PW 03, which significantly impugn the credibility and reliability of his evidence.

17. At the initial stage, PW3 made a statement to the Kalthota Police Station to the effect that the deceased had fallen after stumbling upon a stone, thereby suggesting that the death was accidental. Subsequently, during his testimony, the witness admitted that the said statement was false and asserted that he had made it out of fear of the 2nd and 3rd Accused-Appellants and upon the advice of the 3rd Accused-Appellant.

18. Thereafter, upon the lapse of approximately three months from the date of the alleged incident, the witness made a further statement to IP Olugala, in which he departed from his earlier version and stated that the death of the Deceased was not accidental. He thereafter reiterated the same position in his statement made before the Learned Magistrate with the guidance of IP Olugala.

19. However, it is significant to note that in the statement given to IP Olugala, the witness did not state that his earlier statement to the Kalthota Police Station had been made falsely due to fear of the 2nd and 3rd Accused-Appellants. This omission materially affects the credibility and consistency of his subsequent explanation. (vide Page 166 of the Appeal Brief).

20. Further, PW 03 testified in evidence that after climbing the hill, he alone drew the painting. However, in his earlier statement made to the Kalthota Police, he stated that both the deceased and the said witness had drawn the said painting. *"ඉන්පසු ගල උඩට ගොස් චිත්‍රයක් ඇන්දා. එයත් චිත්‍රයක් ඇන්දා. මමත් චිත්‍රයක් ඇන්දා."* (vide Page 197 of the Appeal Brief).

21. More importantly, the credibility of PW 03's evidence regarding the presence of the 1st and the 2nd Accused-Appellants at the time of the incident is also open to question. PW 03 testified in evidence that after the deceased had fallen, he did not observe what the 1st and 2nd Accused-Appellants did thereafter, as he himself was running downhill from the scene at that time. In contrary, in the statement made to IP Olugala, the witness did not state that he had left the scene prior to the departure of the 1st and 2nd Accused-Appellants. (vide 1D3, marked in evidence at page 212 of the Appeal Brief).

22. It is also noteworthy that the evidence regarding the subsequent conduct of PW 03, following the alleged incident, is inconsistent. In the statement made to the DCDB

Ratnapura, PW 03 failed to mention that, following the alleged incident, he had fled the scene in a state of panic while running downhill. *"දුවගෙන යද්දී වැටී වැටී දිව්වා."* (vide 1D4, marked in evidence at page 213 of the Appeal Brief).

23. The contradictory nature of PW 03's evidence is further demonstrated by contradiction marked 2D2, where the statement made before the Learned Magistrate, the witness did not state that the 3rd Accused-Appellant instructed him to say that the deceased had slipped on a stone. *"සාජන්ව ගලකට ලිස්ස වැටුනා කියලා කියන්න තමන්ට බණ්ඩාර කිව්වා."* (vide 2D2, marked in evidence at page 328 of the Appeal Brief).

24. The fact that two separate statements were made assumes importance when evaluating the consistency and credibility of the evidence of PW 03. In a criminal trial, particularly where the prosecution's case is largely dependent on the testimony of a sole eyewitness, any omissions or discrepancies between the statement initially given to the police and the testimony later provided before the court may have a significant bearing on the reliability and credibility of that witness. Accordingly, it becomes necessary to scrutinize whether the material facts narrated during the trial had in fact been disclosed in the statements made during the course of the investigation.

25. Furthermore, the discrepancies between the two statements cannot be regarded as a minor variations, as it relates to a material aspect concerning PW 03's movements on the day of the alleged incident. Where a witness provides differing accounts of important events, the court is required to treat such evidence with considerable caution.

26. Moreover, it is noteworthy that the pattern of shifting versions given by PW 03 cumulatively erodes the credibility of PW 03 and the consistency per se and renders it unsafe to place implicit reliance on his testimony, particularly where he is the sole eyewitness to the incident.

27. In addition to the foregoing consideration relating to the credibility of the evidence of PW 03, all three Accused-Appellants have contended the fact that the medical evidence adduced through PW 17, Daya Priyadarshna Weeraman (JMO), reflects an opinion that is consistent with both the prosecution version as well as the defense

version. I shall then examine whether the medical evidence is inconsistent with the testimony of PW 03 and, if so, whether such inconsistency renders his evidence unreliable.

28. The evidence of PW 17 testified that the deceased had sustained 8 injuries, of which 3 were in the nature of contusion, and the remaining 5 injuries were in the nature of abrasion. Further clarifying that the injury Nos. 1,3,4 are contusions, while injury Nos. 2,5,6,7,8 are identified as abrasions.

29. PW 17 also testified that the contusion injuries observed on the deceased could occur if the deceased had been lying on a rough surface and was struck from the opposite side with a rock. However, the JMO emphasized that the size of the rock would be a relevant factor in causing the said injuries. In this regard, the JMO expressed the opinion that the injuries observed on the deceased were not consistent with having been caused by a heavy rock. (vide page 450 of the Appeal Brief).

30. Conversely, during the cross-examination, the JMO opined that it was compatible with the defence's version relating to an accidental fall from the cliff. PW 17 testified that it was possible for the deceased to have sustained similar injuries if he had fallen and slid downwards along a rough surface, thereby coming into forceful contact with a hard object. (vide page 462 of the Appeal Brief).

31. In a criminal trial, the burden of proof lies with the prosecution to establish the charges against the accused beyond a reasonable doubt by adducing credible and cogent evidence. Consequently, the accused is presumed to be innocent and has no legal obligation to prove his innocence. Nevertheless, the accused may raise a reasonable doubt in the prosecution's case by highlighting inconsistencies and weaknesses in the evidence or by raising an alternative explanation consistent with innocence. In particular, where the defence succeeds in creating such a reasonable doubt, the trial judge is bound to give the benefit of that doubt to the accused and acquit him of the charges preferred against them.

32. This principle has been affirmed in the following judicial decision, where the court held that mere suspicion cannot substitute proof of the guilt of the accused and that

the burden of establishing guilt beyond a reasonable doubt remains on the prosecution throughout the trial.

33. In ***Queen v. M.G. Sumanasena* 66 NLR 350**, the Court held as follows;

> *"Suspicious circumstances do not establish guilt. Nor does the proof of any number of suspicious circumstances relieve the prosecution of its burden of proving the case against the accused beyond a reasonable doubt and compel the accused to give or call evidence. We are unable to reconcile what the learned Judge said earlier in his summing-up with what he said in the passage to which exception is taken. The burden of establishing circumstances which not only establish the accused's guilt but are also inconsistent with his innocence remains on the prosecution throughout the trial and is the same in a case of circumstantial evidence as in a case of direct evidence."*

34. Citing ***Bhagwan Singh & Others v. State of M.P. (2003) 3 SCC 21***, in ***Kaju Singh v State of UP 372 CR.PC No-3507 of 2012***, Allahabad High Court held that one of the fundamental principles of criminal jurisprudence that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. The Court observed as under: -

> *" The golden thread which runs through the web of administration of justice in criminal case is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. Such is not a jurisdiction limitation on the appellate court, but a Judge made guidelines for circumspection. The paramount consideration of the court is to ensure that miscarriage of justice is avoided."*

35. In a trial of this nature, since the JMO expressed two opinions relating to the manner in which the death of the deceased could have occurred, the defence succeeded in creating a reasonable doubt regarding the manner in which the death occurred by raising an alternative to the prosecution's version that the death of the deceased could have occurred by accidental fall as well. In these circumstances, it is my view that the

medical evidence is inconsistent with the evidence of PW 03, and thereby it would be unsafe to maintain the conviction based on the unreliable evidence of PW 03.

36. In advance, upon the perusal of the impugned judgment, the Learned High Court Judge has erred in law by evaluating the two conflicting versions adduced by PW 03 on the balance of probability. In a criminal trial, the evidence of a witness must be assessed in light of the standard of proof beyond a reasonable doubt, not on the balance of probability as applicable in civil proceedings. At pages 1113 -1114 of the proceedings, the Learned High Court Judge held as follows:

> *''ඒ අනුව කසුන් චතුරංගගේ සාක්ෂියෙහි මුලින්ම අවධානය යොමු කල යුතු වන්නේ ඔහු විසින් මෙම සිද්ධියට අදාලව ඉදිරිපත් කරන ලද ස්තරවරයන් දෙකෙහි කුමක් නිවැරදි වන්නේද, සත්‍ය වන්නේද, වඩාත් විශ්වාසී වන්නේද, යන්න සොයා බැලීමයි.''*

37. It is further observed that the Learned Trial Judge was of the opinion that the Court should determine, between the two versions presented by PW 03 before the court and at the inquest, namely that the death resulted either from an accidental fall or from a homicidal death. Which version appeared to be more probable. Such an approach is erroneous in law, as the duty of the judge in a criminal trial is to determine whether the prosecution has established its case beyond a reasonable doubt, and not merely which of the competing versions appears to be more probable. At page 1131 of the proceedings, the Learned High Court Judge held as follows:

> *''මේ අනුව මෙම සාක්ෂිකරු ඉදිරිපත් කල ස්තරවරයන් දෙක වූ මරණකරුගේ වැටීමත්, මරණකරුට තුවාල සිදු කිරීමත් වෙන් වෙන්ව සලකා බල ඉන් වඩාත් විශ්වාසී හැකි සිද්ධිමය තත්වයද යන්න නිගමනය කලයුතුය.''*
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> *''මේ අනුව සාක්ෂිකරු 3 වන චිත්තිකරුගේ උපදෙස් පරිදි කල්තොට පොලිසියට ඔහු ඒ පිලිබඳව මතකයක් නැතත් මරණ පරීක්ෂනයේදීද අසත්‍යක් ඉදිරිපත් කිරීම මත මරණකරුගේ මරණය හදිසි අනතුරන් සිදු වූ මරණයක් බවට නිගමනයකට එලඹීම සිදු වී ඇත. කෙසේ වුවත්, පෙර සඳහන් කරන ලද කරුණු*
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> *මත මෙම ස්තරවරයන් දෙක වෙන් වෙන්ව සලකා බැලීමේදී වඩාත් විශ්වාසී ඉඩ ඇති ස්තරවරය වන්නේ මෙම සාක්ෂිකරු දැන් මෙම අධිකරණය හමුවේ ඉදිරිපත් කරන ලද ස්තරවරය බව මේ අනුව සාධාරණව නිගමනය කලහැකිය.''*

(vide page 1152 of the Appeal Brief).

38. It is clear that by adopting such an approach, the Trial Judge has misdirected herself in law by applying the standard of probability, which is inappropriate in the context of a criminal trial. In the instance case, the medical evidence also does not support the prosecution's version and, more importantly, does not completely rule out the possibility of an accident. What is discernible from the evidence of the JMO is that the injuries observed on the body of the deceased could have occurred as a result of a fall, as alleged by the defence. The burden resting upon the prosecution is to establish the guilt of the accused beyond a reasonable doubt, and not merely to present a version that appears to be more probable than the alternative. Where two reasonable possibilities arise from the evidence, the one favourable to the accused must necessarily be adopted. In these circumstances, the approach taken by the Learned Trial Judge cannot be sustained.

39. I shall now proceed to examine the proper approach that a court ought to adopt in circumstances where two reasonably probable versions of the facts presented in evidence are placed before it. In this regard, reference is made to the principles articulated in the following Indian judicial decisions, which provide guidance on how a court should evaluate competing versions.

40. In ***B.N. Mutto & Another v. Dr. T.K. Nandi (1979) 1 SCC 361***, the Court observed thus:

"It stems out of the fundamental principle of our criminal jurisprudence that the accused is entitled to the benefit of any reasonable doubt. If two reasonably probable and evenly balanced views of the evidence are possible, one must necessarily concede the existence of a reasonable doubt. But fanciful and remote possibilities must be left out of account. To entitle an accused person to the benefit of a doubt arising from the possibility of a duality of views, the possible view in favour of the accused must be as nearly reasonably probable as that against him. If the preponderance of probability is all one way, a bare possibility of another view will not entitle the accused to claim the benefit of any doubt. It is, therefore, essential that any view of the evidence in favour of the accused must be reasonable, even as any doubt, the benefit of which an accused person may claim, must be reasonable."

41. In ***State Of U.P vs Banne alias Baijnath & Ors, Supreme Court of India 2009 (4) SCC 271*** it was held that:

> *"In our administration of criminal justice, an accused is presumed to be innocent unless such a presumption is rebutted by the prosecution by producing the evidence to show him to be guilty of the offence with which he is charged. Further, if two views are possible on the evidence produced in the case, one indicating to the guilt of the accused and the other to his innocence, the view favourable to the accused is to be accepted. In cases where the court entertains reasonable doubt regarding the guilt of the accused the benefit of such doubt should go in favour of the accused. At the same time, the court must not reject the evidence of the prosecution, taking it as false, untrustworthy or unreliable on fanciful grounds or on the basis of conjectures and surmises. The case of the prosecution must be judged as a whole having regard to the totality of the evidence. In appreciating the evidence, the approach of the court must be integrated not truncated or isolated. In other words, the impact of the evidence in totality on the prosecution case or innocence of the accused has to be kept in mind in coming to the conclusion as to the guilt or otherwise of the accused. In reaching a conclusion about the guilt of the accused, the court has to appreciate, analyse and assess the evidence placed before it by the yardstick of probabilities, its intrinsic value and the animus of witnesses. It must be added that ultimately and finally the decision in every case depends upon the facts of each case."*

42. Moreover, PW 03 made a belated complaint alleging that the death of the deceased was not an accident, and the above-mentioned three Accused-Appellants were criminally liable for the death. The Learned High Court Judge has erred in law by improperly applying the test of spontaneity in assessing the credibility of PW 03. Although the Learned High Court Judge acknowledged that the credibility of PW 03 ought to be assessed by applying the test of spontaneity, the Learned Judge proceeded to disregard the application of that test on the basis that PW 03 had allegedly been compelled to make false statements regarding the incident due to the influence or knowledge of the 3rd Accused-Appellant and out of fear of the 2nd Accused-Appellant. The Learned High Court Judge ought not to have summarily disregarded the application of the test of spontaneity in relation to PW 03, who was a material witness

to the alleged incident. At page 1115 of the proceedings, the Learned High Court Judge held as follows:

> *"ඒ අනුව මුලින් සලකා බැලිය යුතු වන්නේ මෙම සාක්ෂිකරුගේ සාක්ෂියෙහි විශ්වසනීයත්වය, අප්‍රමදිත්වයේ පරීක්ෂාව උපයෝගී කරගෙන මැන බැලීම වුවද ඉහතින් සඳහන් කරන ලද තත්වය මත එසේ එම පරීක්ෂාව අදාල කර ගැනීම මෙම නඩුවට අදාලව අදාල කරගතහැකි තත්වයක් මතු නොවන බව තීරණය කරමි."*

43. In the impugned judgment, the court purported to apply the test of consistency, assessing the evidence of PW 03. However, the testimony of PW 03 contained a substantial number of omissions and contradictions as earlier discussed. The trial judge sought to justify these inconsistencies on the ground that they were attributable to the lapse of the memory of the witness, which was due to the traumatic experience that he faced.

44. However, it is noteworthy that in the instant case, the conviction primarily relied on the testimony of the sole eyewitness; therefore, it is the duty of the trial judge to carefully and rigorously assess the trustworthiness and the credibility of the said witness, and the consistency of the testimony of PW 03. Nevertheless, the Learned High Court Judge has failed to properly evaluate the material contradictions and omissions contained in the evidence of PW 03 and thereby erred in law in relying upon such testimony to sustain a conviction.

45. The manner in which the Learned High Court Judge has dealt with the concept of *"Corpus Delicti"* is also difficult to accept. The term *'Corpus Delicti'* is a Latin term which denotes the 'Body of Crime.' The concept of *Corpus Delicti* is an important part of criminal cases, or in their investigation, which states that before a person can be convicted of a crime, it devolves upon the prosecution to prove that the crime charged has in fact been committed. The *Corpus Delicti* prohibits the prosecutor from proving any offence without reasonable evidence. The prosecution must establish the *Corpus Delicti* with corroborating evidence to secure a conviction.

46. Further, two components are to be proved by the prosecution in a charge of murder in the context of the *Corpus Delicti*, namely;

    a. The death of the deceased was the result of a criminal act; and
    b. Such an act was attributable to the Accused-Appellants.

47. It is well-settled law that a conviction cannot safely be sustained by placing sole reliance on the uncorroborated and unreliable testimony of a single witness, particularly where such testimony is fraught with inconsistencies.

48. In the present case, the opinion of the JMO was capable of supporting both the prosecution's version of homicidal death and the defence's version of an accidental fall. Such medical evidence, which is equally consistent with both versions, inevitably gives rise to a reasonable doubt as to whether the death of the deceased was in fact the result of a homicidal act.

49. In these circumstances, it is my opinion that the prosecution has failed to establish beyond a reasonable doubt that the death of the deceased was caused by a criminal act committed by the Accused-Appellants. Accordingly, the Learned High Court Judge has erred in law by failing to properly apply the doctrine of *Corpus Delicti* and by relying on an unsafe and uncorroborated version of the prosecution to sustain the said conviction.

50. Upon consideration of the foregoing factual and legal context, it is manifestly unsafe to allow the conviction to stand. Accordingly, the conviction and sentence imposed on the appellants are set aside, and the appellants are acquitted of all charges. The appeal is therefore allowed.

Judge of the Court of Appeal

P. Kumararatnam, J

I agree,

Judge of the Court of Appeal