

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

In the matter of an appeal in
terms of Article 128(2) of the
Constitution in the Democratic
Socialist Republic of Sri Lanka

SC APPEAL No. 80/2019

SC SPL LA: 335/2018

CA 244/2009

HC Kurunegala 108/97

The Hon. Attorney General,
Hulftsdorp, Colombo 12,
Colombo 12.

Complainant

Vs.

1. W. A. Ranjith Wijesinghe
2. W. A. Lalith Wijesinghe
3. W. A. Leslie Wijesinghe
4. 1. L. D. Chandraratne
5. W. A. Premasiri
6. W. M. Premasiri
7. M. Ahinsaka Perera

Accused

AND NOW

1. W. A. Ranjith Wijesinghe
2. W. A. Lalith Wijesinghe
3. W. A. Leslie Wijesinghe

Accused-Appellants

Vs.

The Hon. Attorney General,
Colombo 12.

Complainant – Respondent

AND NOW BETWEEN

1. W. A. Ranjith Wijesinghe
(Presently of) Mahara Prison-
Mahara Kadawatha
2. W. A. Lalith Wijesinghe
(Presently of) Welikada Prison
Colombo 08
3. W. A. Leslie Wijesinghe
(Presently of) Dumbara
Prison- Digana Road,
Pallekelle

**Accused-Appellant-
Appellant-Appellants**

Vs.

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

**Complainant- Respondent-
Respondent**

Before : A. L. Shiran Gooneratne, J.
Menaka Wijesundera, J.
Sampath K. B. Wijeratne, J.

Counsel : Ranjan Mendis with Kavinda Priyankarage instructed
by Shyamantha Bandara for the Accused-Appellant-
Appellant-Appellants.
Maheshika De Silva, DSG for the Complainant-
Respondent-Respondent.

Written

Submissions : Written submissions on behalf of the Accused-Appellant-Appellant tendered on the 15th May 2019.

Written submissions on behalf of the Complainant-Respondent-Respondent tendered on the 20th July 2025.

Further Written submissions on behalf of the Complainant-Respondent-Respondent tendered on the 19th of June, 2026.

Argued on : 16.03.2026

Decided on : 17.07.2026

MENAKA WIJESUNDERA J.

The instant appeal has been filed to set aside the judgment dated 31.08.2018 of the Court of Appeal.

The 1st to the 3rd Accused-Appellant-Appellant-Appellants (hereinafter referred to as the “Accused-Appellants”) had been indicted in the High Court of Kurunegala, along with four others, for murder, unlawful assembly, and causing mischief to the house of the deceased on the 17th of August, 1994, at Siyambalagaswetiya.

All the accused had opted for a non-jury trial, and at the conclusion of the said trial, the 4th to the 7th accused were acquitted of all charges by the trial judge, and the 1st to the 3rd accused were acquitted of the mischief charges but were convicted on the 1st, 2nd and 3rd charges in the indictment and sentenced to death.

When this matter was supported for leave, this Court granted leave on the questions of law set out in paragraphs 24(a), (b), (c), (d), and (e) of the petition, which are as follows;

(a) Did the Court of Appeal err in holding that a trial judge of the High Court using as substantive evidence material contained in a deposition made by a witness before a Magistrate would be permissible.

(b) Did the Court of Appeal err in holding that a judge of the High Court in the course of arriving at his verdict is vested with jurisdiction to examine

evidence which has not been led before him (not being a manoeuvre which has become permissible by virtue of any rule of evidence or a provision made in any statute).

(c) Did the Court of Appeal err in its assessment of the case by its failure to consider whether in the absence of any explanation by the prosecution witnesses of the manner in which 4 of the 7 accused persons - including all three (3) Accused-Appellants above-named - sustained injuries; has had any effect on the question of the burden of proof.

(d) Did the Court of Appeal err in its failure to consider whether a careful examination of the evidence of the witness H. M. Premaratne

(i) Could lead to the conclusion that evidence is inconsistent with or contradictory to the verdict.

(ii) Or whether the true and only reasonable conclusion contradicts the determination of the High Court

(e) Did the Court of Appeal err in its failure to consider whether, during the High Court proceedings, the Accused-Appellants had been deprived of the benefit of a fair trial.

Further to that, an additional question of law was framed at the time leave was granted, namely;

“Did the Court of Appeal err in holding that a trial judge is permitted to make use of material in the statement made by a witness to the Police?”

The prosecution's case mainly relied upon the evidence of the two eyewitnesses, namely Roshan Manjula Ruwan Kumara (hereinafter referred to as “Roshan Manjula”) and H. M. Premaratne.

According to the evidence of Roshan Manjula, the nephew of the deceased, on the afternoon of the 17.08.1994 date of the offence, he saw all the accused attacking the deceased's newly purchased and unoccupied house, causing damage to its roof, doors, and furniture. He further claimed that he identified all seven accused at the scene of the alleged mischief.

Thereafter, he stated that he informed the deceased of the said attack, whereupon the deceased instructed his brother-in-law, namely Dhanasena, to lodge a complaint with the police. Accordingly, Dhanasena was the 1st complainant in the instant matter. Later that night, upon Dhanasena's return after informing them that the police would inspect the damaged house, the deceased, together with the witnesses Roshan Manjula and Premaratne, proceeded towards the house carrying a torch.

Roshan Manjula stated in evidence that, while walking towards the house near the culvert, they were attacked by all the accused, including the three Accused-Appellants. He stated that the 1st Accused-Appellant attacked the deceased with a sword, the 2nd Accused-Appellant with a club, and the 3rd with a bottle, and further claimed that he was assaulted by the others.

He claimed that the said attack lasted for approximately half an hour, after which the neighbours arrived and carried the deceased home. The deceased subsequently succumbed to his injuries, while the witness had made a complaint to the police two days later.

The witness identified in court the sword marked **P1**, the bottle filled with sand marked **P2**, and the club marked **P3**. He stated that he had identified the assailants by moonlight and with the aid of a torch.

The counsel for the Accused-Appellants highlighted several inconsistencies with regard to his testimony in Court, pertaining to the acts of each Accused, the weapons used, and the sequence of events. The main inconsistency highlighted by the counsel for the Accused-Appellants was that the witness had failed to state to the police certain matters regarding the alleged mischief caused to the house of the deceased. However, the trial judge concluded that the prosecution had failed to prove beyond a reasonable doubt the two counts of mischief against all the accused; accordingly, they were acquitted of those charges.

The defence further challenged his evidence on the grounds that both he and H. M. Premaratne had failed to rescue the deceased during the attack, that he had denied that some of the accused had sustained injuries during the incident, and that the chief investigative officer harboured animosity towards the accused on account of the fundamental rights application filed by some of them, thereby motivating the officer to act against the accused.

The evidence of the other eyewitness, namely, H. M. Premaratne, corroborated the evidence of Roshan Manjula, as he had also been present at the time of the attack on the deceased. In his evidence, certain contradictions have been highlighted as well, but I observe that those contradictions did not go to the root of the case.

The evidence of Chief Inspector Siyambalapitiya was that the Accused-Appellants, together with the other suspects, had been arrested and produced before the Judicial Medical Officer (JMO), and that some of them had sustained injuries. Throughout the cross-examination, it was suggested to the witness that he harboured animosity towards the accused on account of a fundamental rights application filed in 1993, approximately nine months prior to the incident, by some of the accused, and that such animosity had motivated him to act against them.

He further confirmed the fact that there had been moonlight on the day of the incident because it had been soon after a Poya Day, and that weapons had been taken into custody upon the arrest of the 1st Accused-Appellant and two others.

It was also led in evidence by the prosecution that, on the date of the incident, there had been an election held in the country and a curfew had been imposed. Therefore, according to the evidence led by the prosecution, the three Accused-Appellants had acted as a group and had attacked the deceased along with others unknown to the prosecution.

According to the medical evidence led at trial, the deceased had sustained nineteen injuries, including cut injuries on the head caused by a heavy, sharp cutting sword. This particular injury to the head has been classified as the fatal injury. There had been five other injuries inflicted upon the head of the victim caused by a blunt force and as a result of which, his skull had been fractured. Some of the cut injuries had penetrated the brain and the JMO had expressed the opinion that the death would have been caused within a matter of one hour.

Therefore, the nature of the injuries sustained by the deceased clearly indicates the fact that whoever inflicted those injuries on the deceased had the intention of causing the death of the deceased.

The counsel appearing for the Accused-Appellant further highlighted that the prosecution has failed to explain the injuries of the 1st Accused-Appellant. However, during the cross-examination of the prosecution witnesses, the defence failed to suggest that the injuries found on the 1st Accused-Appellant had been inflicted either by the deceased or the two eyewitnesses who were present at the scene.

Therefore, although it is the primary duty of the prosecution to prove its case beyond a reasonable doubt, if the defence, in cross-examination, has created a reasonable doubt in the case for the prosecution, the benefit has to go to the accused.

In the instant case, although the defence highlighted the injuries sustained by the accused, it failed to create a doubt in this aspect as to whether it was caused by the deceased or by the eyewitnesses. Nevertheless, this does not justify, by any means, the prosecution's failure to explain the injuries on the 1st Accused-Appellant.

In view of the evidence led at the trial, it is prudent to note that, when the deceased had been attacked to the extent explained by the medical evidence, the two eye-witnesses at the scene would not have been in a position to observe the 1st Accused-Appellant sustaining the injuries. The prosecution could have questioned the doctor as to the nature of the injuries on the 1st Accused-Appellant and the way in which it may have occurred. Even so, I am of the view

that this oversight on the part of the prosecution is insufficient to create a doubt in the case of the prosecution, considering the nature of the injuries on the Accused-Appellant as opposed to the gravity of the injuries on the deceased.

Accordingly, although this was an oversight on the part of the prosecution, I conclude that it did not create a reasonable doubt in the case for the prosecution.

The counsel for the Accused-Appellants further stressed the fact that the learned trial judge had disbelieved the evidence of the eyewitnesses to the incident in respect of the mischief charges, but had believed the two eyewitnesses in respect of the murder charge.

They relied upon the maxim “*falsus in uno, falsus in omnibus*” which means that he who speaks falsely on one point will speak falsely upon all.

This principle was considered in the case **The Queen v Julius 65 NLR 505**. Further, an extensive discussion of the relevant maxim appears in *Legal Maxims and Phrases* by Attorney-at-Law Nanda Senanayake (p. 469), where the author analyses the maxim in detail and cites several judicial authorities relating thereto.

In the case of **Sudu Aiya et al. vs Attorney General (2005) 1 SLR 358**, it was held that it is important to distinguish errors of memory, faulty observations, and exaggerations from deliberate falsehoods before applying the said maxim.

Numerous judicial authorities, including those cited in the aforementioned text, have recognised that the doctrine in question is a dangerous one, the application of which depends upon the particular facts and circumstances of each case. The mere existence of an inconsistency or deficiency in one aspect of a witness's evidence does not, as a matter of law, warrant the rejection of the entirety of that evidence. Rather, the evidence must be evaluated as a whole in the context of the facts and circumstances of the particular case.

At this juncture, I consider it appropriate to refer to the decision in **Rajinder et al. v the State of Haryana 1995 SCC (5) 187, JT 1999(5) 272**, wherein it was held that:

“it is the duty of the court to disengage the truth from falsehood instead of taking the easy course of rejecting evidence in its entirety solely on the ground that the same is not acceptable in respect to some of the accused”

In my view, this is highly pertinent to the instant case because the learned Judges of the Court of Appeal, having considered the above-mentioned maxim, have held the following,

“The Trial Judge was called upon to decide the reliability component and not the truthfulness component of the said Roshan Manjula”.

Therefore, both the learned Trial Judge and the learned Judges of the Court of Appeal assessed the reliability of Roshan Manjula's evidence rather than his credibility as a witness.

The learned Judges of the Court of Appeal further observed that, having considered the aforesaid maxim in the context of disbelieving Roshan Manjula's evidence in relation to the charge of mischief, the learned Trial Judge proceeded to examine the inconsistencies relied upon by the Accused-Appellants in the light of the judicial precedents established in our legal system.

It should further be observed that, although the defence highlighted certain inconsistencies in Roshan Manjula's evidence in relation to the charge of mischief, no contradictions or omissions were established in respect of his evidence concerning the charge of murder.

Hence, in the circumstances set out above, I am of the opinion that the learned Trial Judge's rejection of the evidence given by Roshan Manjula with regard to the charge of mischief did not offend the principle in the aforementioned maxim, *falsus in uno, falsus in omnibus*.

In the case of ***Dharmasiri v Republic of Sri Lanka (2010 Vol. 2 SLR)***, it was held that a Court will not lightly disturb the findings on credibility of witnesses by a Trial Judge unless such findings are manifestly wrong.

Therefore, under these circumstances, it is my view that the learned Judges of the Court of Appeal and High Court did not misdirect themselves in considering the evidence of Roshan Manjula regarding the mischief allegedly caused to the deceased's house.

It also has to be observed that the learned Trial Judge who delivered the judgment was the same judge who heard the evidence in the instant case from the commencement to the conclusion of the prosecution; Therefore, he had the invaluable advantage of seeing and hearing the witnesses testify at first hand, thereby observing their demeanour and deportment. It is well settled in our jurisprudence that an appellate court should not lightly interfere with the findings of a Trial Judge unless they are shown to be plainly or patently erroneous

This principle was reaffirmed in the case of ***Gusthingna Waduge Somasiri v. Hon. Attorney General, SC (Appeal) No. 79/2009*** decided on 11th July 2014. Hence, I see no illegality in the findings of the Trial Judge and the judges of the Court of Appeal in relying on the evidence of Manjula Roshan with regard to the murder charge and disregarding his evidence concerning the charges of mischief.

Upon considering the written and oral submissions of both Counsel, I conclude that the learned Trial Judge had correctly found that the 1st to 3rd Accused-

Appellants caused the death of the deceased based on the evidence of the two eyewitnesses, namely Manjula Roshan and Premaratne.

In doing so, they had been satisfied that there existed comprising of the three Accused-Appellants and others unknown to the prosecution, in which the three Accused-Appellants participated, as demonstrated above. They were further satisfied that, in pursuance of the common object of the said unlawful assembly, the Accused-Appellants caused the death of the deceased, thereby committing an offence punishable under Section 296 read with Section 146 of the Penal Code.

Another point raised by the counsel for the Accused-Appellant was that the learned Trial Judge had failed to consider whether the evidence supported a conviction for a lesser offence than that of murder.

At this juncture, I considered it appropriate to refer to the medical evidence adduced at trial, which disclosed that the deceased had sustained nineteen injuries, including severe head injuries, a fatal cut injury to the brain, and several other injuries to the skull of the deceased.

The medical expert's evidence was that each of those head injuries was sufficient, in the ordinary course of nature, to cause death. Furthermore, the evidence established that the Accused-Appellants, while armed with a sword, a bottle, and a club, mercilessly attacked the deceased.

These factors, in my opinion, are quite sufficient to establish the murderous intention of the assailants.

Hence, having carefully evaluated the evidence of the eye-witnesses and the medical expert, I am satisfied that the learned Trial Judge was correct in finding the Accused-Appellants guilty of the offence of murder while being members of an unlawful assembly.

Another argument raised by the counsel for the Accused-Appellants was that the learned Trial Judge had placed undue reliance on the IB extracts.

In this regard, I wish to state that a Trial Judge is entitled to consider the discrepancies in the evidence of the witnesses when a party highlights the same and evaluates the credibility and the reliability of the said witness.

In the matter at hand, that is precisely what the learned Trial Judge did, and I find no instance where the Trial Judge had overstepped his limit.

In **Iddagodage Sarath Kumara vs Hon. Attorney General, SC Appeal No. 228/2014**, the present Chief Justice P. Padman Surasena, held that examination of Information book extracts by the Trial Judge in the High Court non-summary proceedings neither constituted an error of law nor occasioned

any prejudice, as the extracts had been examined solely for the purpose of evaluating the credibility of the witnesses and was not treated as substantial evidence in the case. Justices Mahinda Samayawardhena and Arjuna Obeyesekere concurred with the judgment of the Chief Justice.

The position taken by the learned High Court judge in the instant matter is no different. He had examined the Information Book extracts solely for the purpose of assessing the credibility of the witnesses and did not treat them as substantive evidence.

In light of the material adduced before this Court, I am compelled to conclude that there is no merit in the submissions advanced by the Counsel for the Accused-Appellants.

Accordingly, I answer the aforementioned questions of law (a), (c), (d), (e), as well as the additional question of law which was framed at the time leave to appeal was granted, in the negative. Question of law (b) is answered as being irrelevant.

As such, the instant appeal is dismissed.

JUDGE OF THE SUPREME COURT

A. L. Shiran Gooneratne, J.

I agree.

JUDGE OF THE SUPREME COURT

Sampath K. B. Wijeratne J.

I agree.

JUDGE OF THE SUPREME COURT