

IN THE SUPREME COURT OF FIJI
AT SUVA

[APPELLATE CRIMINAL JURISDICTION]

Criminal Petition No.CAV 0004 of 2014
(On Appeal from Court of Appeal Criminal
Appeal Nos: AAU 0110/2008 and AAU
0019/2009)

BETWEEN : NETANI MOTO NUTE

PETITIONER

AND : THE STATE

RESPONDENT

CORAM : Hon. Chief Justice Anthony Gates, President of the Supreme Court
Hon. Mr. Justice Sathya Hettige, Justice of the Supreme Court
Hon. Madam Justice Chandra Ekanayake, Justice of the Supreme Court

COUNSEL : Petitioner in Person
Mr. M. Delaney for the Respondent

Date of Hearing : 05 August 2014

Date of Judgment : 19 August 2014

JUDGMENT OF THE COURT

Gates, P

I have read the judgment of Ekanayake JA and I concur with it.

Sathya Hettige, PC, JA

I agree with the conclusion and reasoning of the judgment of Ekanayake JA.

Ekanayake, JA**Introduction**

- [1] The petitioner, Netani Moto Nute, by his document dated 30th December 2013 (which appears to have been received by the Registry on 6th January 2014), has sought leave to appeal on 9 grounds stated therein under items (a) to (i). However this was an unsigned document. It is abundantly clear that Rule 5(2) (c) of the Supreme Court Rules 1998 requires it to be signed by the petitioner's legal practitioner or by the party if the party appears in person. The relevant portion of Rule 5 of the Supreme Court Rules 1998 is reproduced below:-

“5. (1) An application to the Court for Special Leave to Appeal under Section 122(2) (b) of the Constitution must be by way of petition.

(2) A petition under paragraph (1) must –

(a)...

(b)...

(c) be signed by the petitioner's legal practitioner or by the party if the party appears in person.

(3)

(4) ... ”

In this matter although the petitioner was appearing in person he had not signed the same. Thus this document cannot be entertained and/or acted upon. Same is therefore rejected.

- [2] There is another document of the petitioner dated 26th December 2013 with his signature with the title: “Re – Notice for Seeking Leave to Appeal out of Time against Conviction, AAU 0110/2008”, giving eleven (11) grounds to be considered at his appeal against conviction which was received by the Registry on 5th February 2014 (as per the date stamp appearing thereon). Those grounds could be summarised as follows:

- 1) *Mis-direction by the Trial Judge in the summing-up with regard to ‘joint enterprise’.*
- 2) *Admissibility of caution interview – as it was obtained under duress.*
- 3) *Trial Judge’s misdirection in the summing up on the evidence of third accused.*
- 4) *The directions in the summing up on the alibi of the petitioner were inadequate.*

- [3] Yet another document dated 16th June 2014 signed by the petitioner (appears to have been received by the registry on the same day) urging 8 further grounds of appeal. Those grounds also appear to be similar to the grounds urged in his document of 26th December 2013 except for a new ground raised namely: - “The sentence is too harsh and excessive”.

- [4] However, this Court will proceed to consider the additional ground submitted in the said document of 16th June 2014 also to avoid any probable prejudice that would be caused to him.

- [5] Petitioner’s document dated 26th December 2013 has to be considered as an application seeking special leave to appeal out of time preferred against the judgment of the Court of Appeal delivered on 6th December 2013, that affirmed his convictions entered on the count

count of unlawful use of motor vehicle – contrary to Section 292 of the Penal Code (2nd count).

- [6] The petitioner was tried with two others in the High Court at Suva on the following charges:

First Count

Statement of Offence

Murder: Contrary to Section 199(1) and 200 of the Penal Code, Cap 17.

Particulars of Offence

Netani Nute Moto, Ilaisa Sousou and Manoa Toviriki Qalovaki together with others between the 24th August 2007 and the 25th August 2007 at Lami in the Central Division, murdered Murad Buksh s/o Azad Buksh.

Second Count

Statement of Offence

Larceny: Contrary to Section 259(1) and 262(2) of the Penal Code, Cap 17.

Particulars of Offence

Netani Nute Moto, Ilaisa Sousou Cava and Manoa Toviriki Qalovaki together with others, between the 24th August 2007 and the 25th August 2007 at Lami in the Central Division stole taxi meter valued \$199.00 and mobile phone valued \$200.00 to the total value of \$399.00 the property of Murad Buksh s/o Azad Buksh.

Third Count

Statement of Offence

Unlawful use of Moto Vehicle: Contrary to Section 292 of the Penal Code, Cap. 17.

Particulars of Offence

Netani Nute Moto, Ilaisa Sousou Cava and Manoa Toviriki Qalovaki together with others, between the 24th August 2007 and the 25th August at Lami in the Central Division, unlawfully and without colour of right but not so as to be guilty of stealing, drove taxi registration LT724 for their personal use.

- [7] On 26/11/2008 the assessors expressed mixed opinions. The learned trial Judge by her judgment dated 26th November 2008 having accepted the verdicts of the assessors, convicted the petitioner on Counts 1 and 3 and acquitted him on Count 2. By the sentencing order of the same date he was sentenced to life imprisonment with a minimum term of 16 years imprisonment before applying for parole for the first count of murder and for the 2nd count that is - "Unlawful use of Motor Vehicle" he was sentenced to 7 months imprisonment, to be served concurrently to the sentence on the 1st count of Murder.

Enlargement of Time

- [8] In an enlargement application to determine whether the interests of justice require allowing extension of time certain factors have to be examined. Those factors as laid down in the case of **Kamlesh Kumar vs State Criminal Appeal No. CAV 001/2009**; by His Lordship the Chief Justice, Gates are as follows:

- (i) *The reason for the failure to file within time;*
- (ii) *The length of the delay;*
- (iii) *Whether there is a ground of merit justifying the appellate court's consideration;*
- (iv) *Where there has been substantial delay, nonetheless is there a ground of appeal that will probably succeed?*
- (v) *If time is enlarged, will the Respondent be unfairly prejudiced?*

Failure to comply within time

- [9] Even at the hearing before this Court although oral submissions were made by the Petitioner (appearing in person) the delay was not explained. In his document dated 26th December 2013 the only reason he had urged was that as he was unrepresented he could not comply with the prescribed time period. However this cannot be considered as an acceptable reasonable excuse for the delay.

Length of the Delay

- [10] When considering the length of the delay it would be of importance to consider the pronouncement in the case of **Edwin Rhodes [1910] 5 Cr. App. R.35 at p36**. This being a case where an application for extension of time for leave to appeal was made by an applicant who was convicted for manslaughter, it was observed that;-

“it must not be taken for granted that an extension of time will be allowed as a matter of course without satisfactory reasons.”

- [11] Further, in a Full Court decision of New South Wales namely – **R. v Albert Sunderland [1927] 28 SR (NSW) 26**; which also being a case involving an application for extension of time after conviction, the court held as follows:

“(1) – that want of means was not a sufficient ground on which to base the application, and

(2) – that in view of the delay in applying “very exceptional circumstances would have to be established before the court would be justified in granting the application.”

- [12] The line of authorities here would amply demonstrate that if the delay is a very short one generally the discretion of the court could be exercised in favour of the petitioner. In enlargement applications the length of the delay has been extensively dealt with, in some

of the recent Fiji Supreme Court decisions. In the case of **Eddie McCaig v Abhi Manu; CBV 002/2012 (27th August 2012)**; Gates, P observed as follows:

"[22] The delay here was very short, a mere 2 days. In C M Stillevaldt BV v EL Carriers (1983) 1 WLR 207 it was 2 weeks, and the discretion was exercised in favour of the appellant. In Palata it was 3 days and Ackner CJ said at p.521b;

.... "we expressed the opinion that, in cases where the delay was very short and there was an acceptable excuse for the delay, as a general rule the appellant should not be deprived of his right of appeal and so no question of the merits of the appeal will arise. We wish to emphasise that the discretion which fell to be exercised is unfettered, and should be exercised flexibly with regard to the facts of the particular case."

- [13] Despite the fact that the above observations were made in an enlargement application in a civil case, yet if the delay was very short and there was an acceptable excuse for the same, as a general rule the appellant should not be deprived of his right of appeal. Therefore necessity would arise to consider all the facts and circumstances in each case when exercising the discretion of the court in granting an enlargement of time.

Any Grounds of Merit Justifying the Consideration of the Appellate Court

- [14] Perusal of the Court of Appeal judgment would show that with regard to the grounds 1 and 4 stated in paragraph 2 above, the Justices of the Court of Appeal having analysed the summing up had concluded that none of the complaints made on the said grounds were made out. In view of the aforesaid conclusion of the Court of Appeal, necessity has now arisen to consider the summing up of the learned High Court Judge with regard to the aforesaid two aspects of petitioner's complaint.
- [15] The summing up by the Learned High Court Judge with regard to 'joint enterprise' appears to be a major complaint of the Petitioner. On a careful examination of the

summing up on joint enterprise, it is noted that her summing up had been to the following effect, (as appearing at pp 50 – 51 of the High Court Record – Volume 1): -

“I now wish to direct you on the law of joint enterprise and secondary offenders. As you have heard, none of these three accused persons have admitted assaulting or killing Murad Buksh. The state relies on the doctrine of joint enterprise, or of secondary offenders to prove its case. The law is that when two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and while committing that unlawful act, another offence is committed which is a probable consequence of that first purpose, then each of the persons involved is guilty of the final offence. This is called joint enterprise. Let me give you an example.

When a group of men decide to break into a shop together carrying weapons, and during the break in, one of them injures a security guard at the shop, and the security guard dies as a result, then each of the persons involved in the break in is guilty of murder even if only one of them actually injured the security guard. This is because when you break into a shop carrying weapons, the fact that someone will get injured and die is a probable consequence of that break in with weapons.

So in this case you must ask yourselves – was each of the accused involved in a common intention to do something unlawful together? Did the deceased Murad Buksh die in the course of the prosecution of that unlawful act on him? Was his death, a probable consequence of the unlawful plan? If you are satisfied of these in relation of each accused, then you may find each guilty of murder even if you are not sure which of them actually killed Murad Buksh, by assaulting him.”

- [16] In the summing up under ‘Analysis’ further directions are found with regard to joint enterprise/common intention (as appearing at pp 73-74 of the High Court Record Volume 1) Same is reproduced below:

“Analysis

Count 1

The questions for you are these. Were the 1st and 2nd Accused part of a joint enterprise to assault and rob the deceased on the 24th August 2007, or were they

at Nadonumai drinking grog at the time? Did they share a common intention to assault and rob the driver?

If they were part of a joint enterprise to assault and rob the driver, was the death of the driver a probable consequence of that joint enterprise? Are you satisfied beyond reasonable doubt of this, and that they either jointly or individually caused the death of the deceased by manually strangling him, intending to kill him or to cause him serious harm? When a person has a ligature tightened around his neck so as to suffocate him, what is the intention of the person strangling him? Do you have any reasonable doubt that the deceased was killed with malice aforethought? And is the 1st and 2nd Accused's guilt in causing his death the only reasonable inference you can draw from the evidence? If you accept the 3rd Accused's evidence, the evidence of Constable Nacanieli Lomani and the 1st Accused's admission to the police that he was present that night in the taxi, what inferences can you draw about the facts of the case? Which version of the evidence is consistent with the drag marks, the injuries found in the post mortem, and Dr. Buadromo's evidence of how death must have occurred?"

Always a summing up has to be objective and balanced as it was observed in **R v Fotu (1995) 3 NZLR 129**. I am of the view that summing up by the Trial Judge on joint enterprise to the above effect is not only a balanced and adequate one but also one which succinctly deals with the correct legal principles with regard to joint enterprise.

[17] The grounds of appeal shown under item (4) of Paragraph 2 above also appears to be a complaint against the summing up. But it is in relation to the alibi raised by the petitioner. His complaint appears to be that inadequate directions were given by the Judge with regard to his alibi. Thus this needs careful consideration.

[18] With regard to the petitioner's (1st accused's) alibi the learned Judge has summed up as follows – (as appearing at pp 67 – 68 of Volume I of the Court Record):

"Both the 1st and 2nd Accused have raised evidence of alibi that is, that at the time of the offence, they were somewhere else. Ordinarily, accused persons are required to give notice that they will be raising an alibi, to the prosecution within 21 days of the transfer of the case to the High Court. This

allows the prosecution to check details of the alibi to be sure that they have not charged the wrong person. It also protects the accused person from allegations of recent fabrication.

In this case neither the 1st nor the 2nd Accused gave the prosecution notice of alibi until just before the trial commenced. You are entitled to take into account the late notice of alibi in deciding what weight to give to the alibis raised as well as the explanations of the witnesses as to why they did not give alibi notice earlier. You will recall that the 2nd Accused's witnesses said that they tried to tell the police and DPP about the alibi but they were told to see Sousou's lawyer. You are also entitled to consider these explanations."

- [19] The aforeproduced portion of the summing up reproduced in Paragraph 18 above was cited by the Court of Appeal Justices when analysing the legitimacy of the said complaint. A close scrutiny of the evidence of the petitioner also shows that he had admitted his failure to comply with the statutory notice period for his alibi.
- [20] It has to be stressed here that non-compliance of the statutory period for alibi notice is a matter that goes to the weight of an alibi. Having considered the summing up with regard to the alibi of the petitioner, I am unable to conclude that there had been any unfair and / or wrong and/or inadequate directions. Thus the situation does not demand re-assessment of his alibi. For the above reasons I am persuaded to affirm the findings of the Learned Justices of the Court of Appeal with regard to the issue of alibi. Whilst doing so I wish to quote the observations of Cooke P, in the case of **R v Fotu (1995) 3 NZLR 129** at p.138:

"New Zealand practice has generally accorded with and we cannot do better than adopt the following passage in the speech of Lord Hailsham of St Marylebone LC in R v Lawrence [1982] AC 510, 519:

"It has been said before, but obviously requires to be said again. The purpose of a direction to a jury is not best achieved by a disquisition on jurisprudence or philosophy or a universally applicable circular tour round the area of law affected by the case. The search for universally applicable definition is often productive of more obscurity than light. A direction is seldom improved and may be considerably damaged by copious recitations from the total content of a judge's note book. A direction to a jury should

be custom built to make the jury understand their task in relation to a particular case. Of course it must include references to the burden of proof and the respective roles of jury and judge. But it should also include a succinct but accurate summary of the issues of fact as to which a decision is required, a correct but concise summary of the evidence and arguments on both sides, and a correct statement of the inferences which the jury are entitled to draw from their particular conclusions about the primary facts."

When the summing up in this case is carefully examined, I am convinced that no legitimate complaint can arise. Thus I conclude there were no grounds of merit justifying the consideration of the appellate court.

- [21] As the 1st and 4th grounds of appeal listed under paragraph 2 above have been already dealt with what awaits consideration now are the 2nd and 3rd grounds listed therein. The 2nd ground was 'admissibility of caution interview of the petitioner as it was obtained under duress'. The Learned Justices of the Court of Appeal in their impugned judgment at paragraph 11 on page 21 have dealt with the above issue in the following manner:-

"21. Nute objected to the admissibility of his caution statement on the grounds that it was obtained by force and threats. The trial judge held a voir dire and rejected those grounds and admitted the caution statement in evidence. The judge then gave detailed directions to the assessors on the weight to be attached to a disputed confession. The assessors were told that the weight to be attached to a disputed confession was a matter for them. Nute's submission under this ground is tantamount to re-litigation on the same facts that were litigated in the trial court. Appeals are not the forum to re-litigate facts already litigated in the trial court."

- [22] If I am to advert to the summing up in relation to the above by the Learned Trial Judge (as appearing at page 70 of the High Court Record - Volume 1), she has stated as follows:-

"The defence says that the police ill-treated the two accused and the 1st Accused says that the accused's statements are false and unreliable. Of course you have heard that all the police witnesses denied categorically

ill-treating the accused and said that the interviews took 2 and 3 days because of the time taken to search, to reconstruct the scene and to give the accused sufficient rest during the interviews.

What weight you choose to give the interviews made by these two accused is a matter entirely for you. If you consider them to be unreliable either because the police assaulted and ill-treated the accused, or because the accused themselves told lies to the police, then you may think that you cannot put much weight on them at all. If however you consider them to be reliable records of what the Accused said to the police, then you may think that they contain important statements of what allegedly occurred that night. You may also think that there are wide discrepancies between the accounts given by the 1st Accused and by the 3rd Accused."

[23] Having considered the above I am inclined to the view that the Judge's detailed direction was a balanced and legally correct one. As such I agree with the Court of Appeal's finding in rejecting the challenge raised on the admissibility of the Petitioner's caution interview.

[24] Out of the grounds listed in paragraph 2 above what remains now is the 3rd ground regarding Trial Judge's misdirection in the summing up when dealing with the evidence of the 3rd accused. Judge's summing up with regard to above as appearing at page 70 of the High Court Record Volume 1 is reproduced below:-

"However, when one of the accused takes the witness stand and gives sworn evidence, then the evidence can be taken into account if it implicates the other accused. Now in this case the 1st and 2nd Accused did not implicate the 3rd Accused. In fact they said they did not even know him. But the 3rd Accused did directly implicate both the 1st and 2nd Accused on all counts of the Information. He said that the deceased was assaulted by them, then dragged to the bridge. The prosecution says that an inference may be drawn from his evidence (and this is a matter for you) that they then killed the deceased, or that they were part of a joint enterprise to kill him.

If you accept the 3rd Accused's sworn evidence as being credible and reliable then you may consider his evidence in assessing the guilt or innocence of the 1st and 2nd Accused. The sworn evidence of the 3rd Accused Manoa Qalovaki is admissible evidence against his two co-accused."

On the above I find that the Judge's reasoning and directions are adequate and there cannot be any complaint of misdirection. As such I reject this ground of challenge also.

[25] Undoubtedly this is a case mostly based upon circumstantial evidence. As such I am conscious of the legal principles underlying the same. Those could be summarised as follows:

- For a Court to act on circumstantial evidence it must be complete, and of a conclusive nature and incapable of explanation,
- All proved circumstances must provide a complete chain,
- No link of which must be missing and they must unequivocally point to the guilt of the accused and exclude any hypothesis consistent with the innocence of the accused, and
- In a case based on circumstantial evidence motive plays an important role in order to tilt the scale against the accused.

On a close scrutiny of the summing up of the trial Judge I'm satisfied that a fair and balanced direction has been given on the evidence, explaining the correct legal position with regard to circumstantial evidence.

[26] The ground enumerated in paragraph 3 above namely – 'sentence being too harsh and excessive' - also has to be considered. Even at the hearing before this court the petitioner was silent with regard to this ground and no submissions were made to substantiate the same. The sentence for murder is one that is fixed by law. In the sentencing order dated 26/11/2008 learned Judge whilst being mindful of the fact that there is no discretion to order a lesser term for murder, has proceeded to give reasons as to why she fixed the minimum term of 16 years. The following reasons were considered:-

- (i) *the nature of the crime;*
- (ii) *how a young taxi driver was asked to drive into a remote part of Veisari where the assault took place;*
- (iii) *strangling him with a rope and then hung him by the neck at the bridge at Veisari.*

It is observed that according to the Pathologist, Dr. Eka Buadromo's evidence, cause of death in her opinion was asphyxia as a result of strangulation. Her evidence as appearing at page 717 of the High Court Record – Volume 2 is to the following effect:-

“Cause of death in my opinion was asphyxia as a result of strangulation. By that I mean that the second ligature mark which was not due to hanging, but was due to manual strangulation which caused death. Manual strangulation is when someone strangles you with hands or rope around your neck. Suicide is not manual strangulation.”

- [27] Further when photo no. 5 was shown her response was this; - ‘This photo shows yellow flags leading to the creek if someone were to be pulled by a rope around their neck right up to the bridge.’

In cross examination she had further said that –“someone else strangled the deceased and she believes that hanging was done after the strangulation”. The evidence appearing at page 724 of Volume 2 of the High Court Record amply demonstrated that there was evidence of a struggle when the deceased tried to hold off the ligature. At page 724 it reads:

“Q – Was there evidence of a struggle during strangulation?”

A – In the neck under the second ligature mark, there is an area of abrasion with bruising. Could be a struggle, and the man could have tried to hold off the ligature and ended up with scratching and bruising in the area. Also diagram 2 shows

bruising and abrasion on wrist and forearm and a fingernail mark on the right forearm. This means that the deceased was probably trying to stop what was done to him thus sustaining the bruises and the abrasion."

At the same page when questioned on ligature marks this was the evidence:

"Q – In the sketch of the face there were two different marks?

A – Yes.

Q – 2 lines of ligature marks?

A – Yes.

Q – On strangulation?

A – No. 17 is the ligature of hanging. No. 18 is the one of strangulation."

- [28] When considering the aggravated circumstances enumerated as above, this seems to be a heinous crime that calls for deterrent punishment. Thus minimum term of 16 years imprisonment before applying for parole for the count of murder cannot be said to be excessive. On the 3rd count he has been sentenced to seven months imprisonment. This is also after considering the tariff for the offence of unlawful use of motor vehicle which is 6 to 8 months imprisonment. The Learned High Court Judge has further ordered the sentences to be served concurrently. When considering the evidence in the trial this does not appear to be an excessive sentence as there had been overwhelming circumstantial evidence against the petitioner.

Will the Respondent be unfairly prejudiced if time is enlarged?

- [29] What needs to be considered is this being a criminal case if enlargement of time is allowed whether any prejudice will be caused to the respondent. In my view to a large extent it will depend on facts and circumstances of each case, as each case is surrounded by facts

and circumstances peculiar to that case. In the case at hand following observations could be considered as legitimate:

- a) The offences had been committed between 24th and 25th September 2007 – almost 7 years prior.
- b) A lengthy trial in the High Court involving evidence of several witnesses inclusive of the Pathologist.
- c) Convicted on 26th November 2008.
- d) Conclusion as to non-existence of any grounds of merit justifying the consideration of the appellate court (as in paragraph 19 above).

When the above matters are considered together with the aggravated circumstances in this case I am persuaded to incline to the view that all the above matters demand a finding in favour of the respondent. That is if enlargement of time is allowed the respondent will be unfairly prejudiced.

Special Leave to Appeal

- [30] It is amply clear that the jurisdiction of the Supreme Court with respect to Special Leave to appeal is embodied in Section 7 of the Supreme Court Act No. 14 of 1998.

“Section 7(1) of the Supreme Court Act No. 14 of 1998 provides as follows:-

In exercise of its jurisdiction under Article 122 of the Constitution [see new Section 98 of Constitution 2013] with respect to Special Leave to Appeal in any civil or criminal matter, the Supreme Court may, having regard to the circumstances of the case –

- (a) Refuse to grant special leave to appeal*
- (b) Grant special leave and dismiss the appeal or instead of dismissing make such orders as the circumstances of the case require ; or*
- (c) Grant special leave and allow the appeal make such other orders as the circumstances of the case require”.*

Section 7(2) thereof sets out as follows:

In relation to a criminal matter, the Supreme Court must not grant special leave to appeal unless -

(a) A question of general legal importance is involved;

(b) A substantial question of principle affecting the administration of criminal justice is involved; or

(c) Substantial and grave injustice may otherwise occur.

Section 7(3)..."

[31] A plain reading of the above Section 7(2) which relates to criminal matters would show that the Supreme Court must not grant special leave to appeal in a criminal matter unless the court is satisfied that a question of general legal importance is involved, or a substantial question of principle affecting the administration of criminal justice is involved or substantial or grave injustice may otherwise occur.

[32] Further I am mindful of the observations made by this court in **Dip Chand v State; CAV 004 of 2010 (9th May 2012)** to the following effect:

"...Given that the criteria is set out in Section 7(2) of the Supreme Court Act No. 14 of 1998 are extremely stringent, and special leave to appeal is not granted as a matter of course...".

[33] Whether special leave should be granted or not is a matter that lies solely with the court and at this final level this Court being the final Appellate Court, special leave could be granted in cases which fulfill the required criteria enumerated in Section 7(2) of the

Supreme Court Act or in a rare case where there is an irremediable injustice compelling the intervention of the Supreme Court.

- [34] In view of the foregoing analysis although the length of the delay in this case does not appear to be a long one, the petitioner has totally failed to offer any acceptable, reasonable explanation for the delay. As such the application for enlargement of time lacks merit and same is hereby refused. Furthermore I am unable to conclude that the grounds adduced by the petitioner meet the criteria for special leave to appeal embodied in Section 7(2) of the Supreme Court Act No.14 of 1988. Therefore his application for special leave to appeal too should fail. The judgment of the Court of Appeal dated 6th December 2013 is therefore affirmed and the application for special leave to appeal is refused.

ORDERS

- 1) Petitioner's application for enlargement of time is refused.
- 2) Special Leave to appeal is also refused.
- 3) The judgment of the Court of Appeal dated 6th December 2013 is affirmed.
- 4) Conviction and Sentence affirmed.



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Hon. Chief Justice Anthony Gates
President of the Supreme Court



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Hon. Mr. Justice Sathya Hettige
Justice of the Supreme Court



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Hon. Madam Justice Chandra Ekanayake
Justice of the Supreme Court

Solicitors:

Petitioner in Person.

Office of the Director of Public Prosecutions for the Respondent.