

[IN THE COURT OF CRIMINAL APPEAL]

1955 *Present*: Pulle, J. (President), Sansoni, J., and Fernando, J.REGINA *v.* S. A. PETER

APPEAL 47 OF 1955 WITH APPLICATION 76

S. C. 55—M. C. Colombo, S, 169

Court of Criminal Appeal—Insanity of prisoner subsequent to conviction—Adjournment.

Hearing adjourned in view of a report from the Prison Medical Officer according to which the appellant, since his admission to prison after conviction, was showing symptoms of mental derangement.

APPPEAL, with application for leave to appeal, against a conviction in a trial before the Supreme Court.

Accused-appellant in person.

V. S. A. Pullenayegum, Crown Counsel, for the Attorney-General.

Cur. adv. vult.

September 1, 1955. PULLE, J.—

The appellant was indicted on the charge that on the 2nd September, 1954, he committed murder by causing the death of one Palatura Liyanage Ariyadasa. He was convicted of culpable homicide not amounting to murder and was sentenced to twelve years' rigorous imprisonment. He has applied for leave to appeal and has also appealed on certain matters of law.

When the case was taken up for hearing the appellant was present but was not represented. We had before us a report from the Prison Medical Officer according to which the appellant, since his admission to prison after the conviction, has shown symptoms of mental derangement. He is dull and apathetic, mutters to himself and is irrelevant, irrational and confused in conversation. His condition is described as schizophrenia. His immediate removal to a mental hospital was recommended.

We are for the present satisfied, having regard to the report and to an answer given to a question put by the Court, that the appellant is of unsound mind and is consequently incapable of either conducting his own case or of instructing counsel.

There is nothing in the Court of Criminal Appeal Ordinance, No. 23 of 1938, nor in the rules made thereunder which covers the case, nor is there any precedent of this court to guide us. In the case of *Thomas*

*Burns*¹ the Court adjourned the hearing of an application for leave to appeal *sine die* because the applicant, after he was sentenced to a term of imprisonment, had been removed to an asylum under a Home Office order consequent on a certificate under the Criminal Lunatics Act, 1884. Rule 80 of the Rules made under the Prisons Ordinance (Cap. 44) provides for a procedure to deal with a prisoner suffering from mental derangement. A board is appointed to report on the case and its recommendation is given effect to by the appropriate authority, I presume, making an order for the removal of the prisoner to a mental hospital where necessary.

We, therefore, adjourn the hearing of this appeal until such time as the court is informed as to whether or not the recommendation of the Medical Officer that the appellant be removed to the Mental Hospital, Angoda, has been accepted. Upon the Court being so informed, the Registrar will re-list the appeal and the application.

Hearing adjourned.

¹ (1928) 21 Cr. A. R. 57.
