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Appeal No. 30 of 1936.

**at the Privy Council.**

## ON APPEAL

FROM THE SUPREME COURT OF THE ISLAND OF CEYLON.

BETWEEN

ALEXANDER PERERA CHANDRASEKERA *alias*  
ALISANDIRI - - - - - *Appellant,*

AND

THE KING - - - - - *Respondent.*

10

### CASE FOR THE APPELLANT.

1. This is an appeal by special leave from a judgment of the Supreme Court of the Island of Ceylon delivered on the 1st May, 1935, whereby the Appellant was convicted of murder and sentenced to death. RECORD.  
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2. The Appellant was indicted at a Session of the said Supreme Court in its criminal jurisdiction for the Western Circuit at Colombo before a Judge of the said Court and a jury consisting of seven persons on a charge of having on the 15th May, 1934, murdered one Salami Nadatchi. The jury found the Appellant guilty by a majority of six to one. p. 4, l. 20.  
p. 41, l. 11.

3. The Appellant's proctor applied to the Supreme Court for a copy of the summing-up of the learned Judge, but the Appellant was unable to obtain a copy as no shorthand note of the summing-up had been taken. The Appellant is consequently unable to make any submission relating to the said summing-up. p. 7, l. 21.  
p. 11, l. 38.  
p. 29, l. 1.  
p. 17, l. 2.

4. The deceased, a widow of the age of about forty-two years, lived on a plot of land adjoining the estate of one Collin Silva and adjoining also the land of Stanley Jayawardene (a witness hereinafter mentioned). She was last seen alive some time after 2 p.m. of the 15th May, 1934, by Rengam Arumugam, a watcher of the estate. At about 4 p.m. of the same day she was discovered by the watcher's wife lying with her throat cut on the verandah of the estate bungalow occupied by the watcher and his wife. The wife was not called as a witness. Rengam Arumugam

## RECORD.

p. 30, l. 11. said that he was out of the house at the time and that he came up on hearing a cry from his wife. The police received information from Rengam Arumugam through one Russel Corea at 4.45 p.m., and arrived on the scene at 5.15 p.m. The injuries were so deep and so severe that the muscles of the neck had been severed and the base of the tongue and mouth cavity exposed. The deceased was unable to speak. After the arrival of the police she was asked who her assailant was and it was alleged that she nodded her head and made other signs implicating the accused.

p. 6, l. 34.  
p. 30, l. 18.  
p. 39, l. 37.

There was no other direct evidence as to how she came by her injuries or of her history between the time that Rengam Arumugam saw her and the time she was discovered on the verandah. The Sub-Inspector of Police who searched the house of the deceased on the same day, found blood on a camp cot and on a chair in the house, but there was no evidence of a trail of blood from the house of the deceased to the estate bungalow which is a distance of 480 feet. 10

p. 33, l. 40.

The Sub-Inspector says that though he searched the house of the deceased with a constable he failed to find the katty (an instrument chiefly used for felling trees and cutting wood) which was produced in Court as the instrument with which the accused had committed the murder, but it was found the next day in the same house by the Inspector of Police, Mediwaka. 20

p. 35, l. 24.  
p. 32, l. 13.  
p. 33, l. 43.

When Mediwaka went to search the house he found people cooking in it, and, admittedly, no guard had been placed over it during the period between the two inspections.

6. The evidence led by the Crown falls into the following categories:—

(i) Evidence of signs made by the deceased alleged to implicate the accused.

This is the main evidence upon which the prosecution rested and without this evidence it would not have been possible for the jury to have brought in a verdict of guilty. 30

(ii) Medical evidence.

(iii) Evidence to suggest a motive of robbery.

Robbery was faintly suggested as the motive. Even if robbery was the motive there is no evidence establishing robbery on the part of the accused. The medical evidence indicates that the motive of the murderer was revenge. There is no evidence whatever of ill-feeling between the accused and the deceased at any time.

(iv) Evidence led to establish that the accused was seen going towards the deceased's house and actually talking to her on the afternoon of the 15th May. 40

This evidence combined with the evidence of Rengam Arumugam (also a prosecution witness) not only brought

the accused into contact with the deceased, but clearly took him away from the vicinity of the deceased's house before the murder took place. RECORD.

A summary of this evidence is set out in Appendix A.

- (v) General evidence relating to the movements of the accused on the 15th May.

A summary of this evidence is set out in Appendix B. It is either vague or inconsistent with the rest of the evidence and entirely insufficient to sustain a verdict of guilty.

- 10 As there was no evidence suggesting that the Appellant had seen or knew how the deceased came by her injuries, and as he was not present when she made signs, as there was nothing in the evidence led requiring explanation by him, and as the statement that he was not guilty made by him in the Police Court as soon as he was charged was read in evidence by the prosecution, his counsel did not call him to give evidence.

7. Evidence under categories (i) and (ii) is next dealt with.

According to the District Medical Officer who attended on the deceased in hospital, and later held a *post mortem*, she had six wounds, in the following three categories:— p. 6, l. 30.

- 20 (i) A jagged incised wound which "had severed the muscles on the sides of the neck and the entire larynx of the sound box and two rings of the trachea exposing the base of the tongue and the mouth cavity."  
 (ii) Three incised wounds, one "cutting the entire thickness of the right wing of the nose."  
 (iii) Two wounds "severing the ears."

8. Within four hours of sustaining these injuries the deceased is alleged to have nodded her head to a suggestion from the witness, Martin Perera, that the accused was her assailant.

- 30 The District Medical Officer, the only expert medical witness in the case, was called by the prosecution. He stated that the deceased was conscious after the infliction of the injuries, but was not asked in examination-in-chief whether in view of their nature she could have nodded her head. In cross-examination he stated "the deceased could have nodded her head very slightly." There was no further examination of the witness on this point. p. 7, l. 36.  
p. 8, l. 1.

- 40 9. There was no direct evidence describing the position of the deceased at the time she is alleged to have nodded her head. The police constable Hussim, who arrived on the scene before the alleged nodding took place, said he placed the deceased against a wall on the verandah with a cushion to her back and her body erect. There does p. 31, l. 3.

RECORD. not appear to be any doubt that the alleged nodding took place in this position.

It is humbly submitted that it would be most dangerous to assume that any movement of the head in these circumstances was a voluntary nod, and in the absence of expert medical evidence as to the probabilities of involuntary movement of the head, it is submitted that there was no evidence upon which it could properly or safely have been concluded that the deceased voluntarily nodded her head when the name of the accused was mentioned.

10. Provision is made for statements of deceased persons relating to the cause of death or circumstances resulting in death in Section 32 of the Ceylon Evidence Ordinance, No. 14 of 1895, which is as follows:—

“ 32. Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which, under the circumstances of the case, appears to the Court unreasonable, are themselves relevant facts in the following cases:—

“(1) When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person’s death comes into question. 20

“ Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceedings in which the cause of his death comes into question.”

11. Counsel for the defence objected to evidence being led of the nod and also of certain other signs (set out in detail later) which were alleged to have been made by the deceased, on the ground that they were neither written nor verbal statements. He submitted further that if the Court held against him then, at the very least, the interpretation put by the witnesses on the signs was not admissible in evidence. 30

12. The presiding Judge ruled that the evidence as to the signs was admissible but that the statements of the witnesses as to the “ interpretation they put upon the signs ” was not admissible. In spite, however, of this ruling the witnesses were allowed to state their interpretations and inferences. 40

13. It is respectfully submitted that the ruling with regard to the admissibility of the signs was clearly wrong.

14. The interpretations put upon the signs by the witnesses and the inferences they drew were matters of opinion and were not admissible in evidence for this further reason. The instances in which the opinion of witnesses is admissible appears in Sections 45 to 51 of the Ceylon Evidence Ordinance, No. 14 of 1895, and none of these sections cover the evidence given.

RECORD.

15. It is submitted that the admission of evidence as to signs made by the deceased and of inferences drawn by the witnesses regarding them gravely prejudiced the accused by subjecting him to trial on evidence  
10 against which a person accused of crime is protected by law.

It is humbly submitted further that the frailty of such evidence upon any legal or fair view is made evident by the facts of this case, particularly when it is remembered that the test of cross-examination, or even the test of examination in Court, could not be applied to the person alleged to have made these signs.

16. There was no attempt to obtain a statement in writing from the deceased or even an attempt to obtain from her in writing the name of her assailant or assailants although she had control over the movements of her hands. There was no evidence that she was unable to write on  
20 account of illiteracy. p. 39, l. 41.

Moreover, no record in writing was kept of the questions put to her and of the signs she is alleged to have made. There does not appear to have been at any time any attempt to make such a record.

There are discrepancies in the evidence relating to the alleged signs.

17. Martin Perera was the first witness called with regard to the signs. He said (in examination-in-chief):—

“ I saw the deceased in the verandah of Mr. Silva’s house lying  
fallen on the steps, bleeding profusely from her neck. Constable  
Hassim questioned the woman as to who cut her neck. (To Court—  
30 He questioned her in Tamil ‘Onde Kaluthuwettanathu Aru’—Who  
cut your neck? In response to this question the deceased made  
signs to indicate height which the constable did not understand.  
Thereafter I questioned the deceased in Sinhalese “ Who cut you ? ”  
(To Court—I have spoken to this woman previously and she spoke  
in Sinhalese.) p. 9, l. 24.

“ In response to my question too she made a certain gesture.  
It was just then that Mr. Stanley Jayawardene arrived at the scene.  
(To Court—He came up to the woman.) Then the deceased  
pointed to Mr. Jayawardene and made a sign to me. By that sign  
40 I inferred that deceased must be referring to a servant of Mr.  
Jayawardene. After that I mentioned the name of Alisandiri—  
accused’s name—to her, to which she nodded her head. When  
constable Weerasinghe came within her view she pointed at him and

**RECORD.**

slapped her own cheek about two or three times. Then I asked her whether she was referring to Alisandiri who assaulted the constable, to which she nodded her head again."

18. Martin Perera was allowed, even without a description of the sign made by the deceased when she pointed to Stanley Jayawardene, to state that he inferred that the deceased was referring to a servant of Stanley Jayawardene. Asked why he suggested the name of the accused he said, "I suggested the accused's name to the deceased because he was the only workman in Madampe under Mr. Jayawardene and moreover he was known to the deceased." No other reason was given. It appears from the evidence that the accused was not at the time a servant under Mr. Jayawardene, that both Martin Perera and accused had been servants under Mr. Jayawardene, that both had left Mr. Jayawardene about April, 1933, and that both were known to the deceased. Stanley Jayawardene had other servants under him at the time. It is submitted that clearly there was no foundation for the inference stated by Martin Perera to have been drawn by him, and that the suggestion that the accused was the assailant was made to the deceased by Martin Perera without any indication by the deceased to that effect. The fact that the deceased "pointed to Mr. Jayawardene and made a sign" to Martin Perera, if it indicated anything at all, indicated that Stanley Jayawardene or both Stanley Jayawardene and Martin Perera had inflicted the injuries.

19. The probability that there were two assailants or at least two weapons used in the assault was suggested by the medical evidence. A katty was produced by the prosecution as the weapon with which the murder was committed. The medical witness said, "Injury No. 1 could have been caused by this katty. The other injuries could not have been caused by this katty." According to him the other injuries could have been caused by a "sharp cutting instrument" which could not have caused Injury No. 1.

20. There was evidence that in February, 1933, the accused had slapped a constable. The evidence that the deceased pointed to a constable and "patted her own cheek" (this is the description given by the most senior police officer present, namely, Sub-Inspector Gunasekera) was relied on by the prosecution as an indication that the deceased was referring to the accused.

It is clear from the evidence of Martin Perera (confirmed by the evidence of the police witnesses and all the other witnesses except Stanley Jayawardene) that Martin Perera suggested the name of the accused before the incident of "patting the cheek."

This appears from the evidence given by Martin Perera in examination-in-chief and is put beyond doubt from the evidence given by him in cross-examination, "It was after I mentioned to her the name

of Alisandiri (accused) that she pointed at the constable and slapped herself." **RECORD.**

It is humbly submitted that the suggestion made to the deceased by Martin Perera displays the worst features of a leading question, and that the alleged acquiescence in the suggestion by a person in the position of the deceased was wholly inadmissible, particularly as the test of cross-examination was not available.

21. With regard to the contention that the deceased in pointing out a constable and patting her cheek was referring to the accused, it is more likely that she wanted the constable to attend to the injuries on her face, particularly as a constable had previously bandaged her neck. Moreover, there is no evidence that the deceased was aware of the incident of February, 1933.

The name of the accused had already been suggested to the deceased and, even if the patting of the cheek had reference to the accused, it cannot be interpreted safely as meaning anything more than that she had comprehended the name mentioned.

22. Sub-Inspector Gunasekera, Hussim, Rengam Arumugam, Russel Corea and Stanley Jayawardene (already referred to in the evidence) were present during the incidents above mentioned spoken to by Martin Perera. Their evidence on the signs is set out in Appendix C. They stated that the deceased nodded her head when the name of the accused was mentioned but none of them stated that she nodded her head on a second occasion.

It appears from the evidence that it was not possible for Martin Perera to have made a suggestion unheard by the other witnesses, or for deceased to have nodded her head unseen by them.

23. Evidence of motive is next dealt with. The witness Ana M. Nadar said that the deceased was his aunt and that she "was well-off, that is, she had some cash and some jewellery." Later he said, "her jewellery was missing after this incident." The witness did not say what jewellery was missing or how he knew it was missing. No guard was placed over the deceased's house after the murder and it is impossible to say, even if jewellery was missing, that the murderer had taken it.

Sub-Inspector Gunasekera said he found "pieces of a broken till" in the house of the deceased, but there is no evidence that the till was intact immediately, or shortly, before the murder. There is nothing which suggested that the till had not been broken and the money taken by the deceased herself.

40 With regard to a trunk found in the house the Sub-Inspector said, "I saw this trunk. I did not attach any significance to this trunk. By merely looking I inferred that it was locked. No precautions were taken to prevent the trunk from being handled by others."

RECORD.  
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p. 35, l. 20.

The Inspector of Police who examined the house the next day said, "This trunk was also there. I examined it carefully. An attempt had been made to force open the trunk . . . When I went there I found the Nadars were cooking in the room." It is impossible to draw the inference that the murderer had tried to force open the trunk.

There was no other evidence indicating robbery.

p. 36, l. 21.  
Ex. pp. 44, 45.

24. There was thus no evidence establishing robbery. Even if the motive of the murderer was robbery it was not established that it was the accused who committed it. A palm print found on the trunk was found by the finger print expert not to be a palm print of the accused.

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25. The medical evidence mentioned in paragraph 19 indicated that two weapons had been used. The doctor also said, "The injuries on the ears were clear cut injuries severing the end of the ear lobes. What I think is that the ear lobes might have been held and cut." It is submitted that the medical evidence suggested that the murder was an act of revenge perpetrated by two persons, one or both of whom was actuated by a deep sense of hatred. There was no evidence of any ill-feeling between the accused and the deceased at any time.

26. The Appellant humbly prays that the judgment and sentence of the Supreme Court be set aside and that the Appellant be acquitted 20 for the following, among other,

#### REASONS:—

1. Because the case for the prosecution rested upon evidence of certain signs alleged to have been made by the deceased and it was not possible without this evidence for the jury to have brought in a verdict of guilty.
2. Because the evidence relating to the signs was inadmissible.
3. Because the evidence led by the prosecution was insufficient in law to establish that the movement of the head by the deceased was voluntary and there was consequently 30 no evidence upon which the jury could properly, or safely, have held that she nodded her head in assent to questions put to her.
4. Because it appears from the evidence that the name of the Appellant was suggested to the deceased without any indication from her that he was the assailant.
5. Because the suggestion that the Appellant was the assailant exhibits the worst features of a leading question and the



prejudice caused to the Appellant was all the greater because the test of cross-examination, or even of examination in Court, could not be applied to the person alleged to have made signs in response to the said suggestion.

6. Because witnesses were allowed to state their interpretation of the signs and the inferences they drew therefrom although such evidence was inadmissible and had been held to have been inadmissible by the learned Judge.
- 10 7. Because upon any legal or fair view there was no evidence upon which the Appellant could have been convicted.
8. Because there has been a violation of the principles of natural justice in that the Appellant has been convicted upon evidence admitted in breach of fundamental principles relating to the statements of deceased persons, in breach even of the ruling of the learned Judge who presided, and as a whole clearly insufficient to warrant a conviction.

L. M. DE SILVA.

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## APPENDIX "A."

EVIDENCE LED TO ESTABLISH THAT THE ACCUSED WAS SEEN GOING TOWARDS THE DECEASED'S HOUSE AND ACTUALLY TALKING TO HER ON THE AFTERNOON OF THE 15TH MAY.

RECORD. — The witnesses Martin Perera, Davith, Sandanam Nadar and Kitan Nadar were called by the prosecution for this purpose.

p. 9, l. 9. Martin Perera said he saw the accused at about 12 or 12.30 p.m., riding a bicycle. Davith said he saw the accused at about 12.30 p.m., p. 12, or 1 p.m., "take the turn" to Collin Silva's estate. Sandanam Nadar li. 9—14. who lived on a plot of land adjoining the land of the deceased said, "At p. 13, l. 29. about 1 p.m. that day the accused came to the wadiya a quarter mile away from Collin Silva's house and inquired for the Kangani . . . I said I did not know where he had gone. The accused left the wadiya . . . I saw the accused going in the direction of the deceased's house crossing the wire fence." Kitan Nadar who lives near the deceased's house said, p. 15, l. 22. "On that day I went to the well to fetch water about 1.30 or 2 p.m. Then I saw the deceased and Alisandiri (accused) engaged in a conversation."

In order to obtain the true effect of this evidence it must be viewed in the light of the evidence given by Rengam Arumugam, the watcher, 20 who also was a witness called by the prosecution. He said, "After cutting the trenches I returned home at about 2 p.m. Having returned home I took some cattle to be tethered in the garden. On my way with the cattle the deceased spoke to me and said that a man came in search of the Kangani and requested me to inform the Kangani accordingly if I were to meet him. Then I went to the wadiya in search of the Kangani but he was not there." The accused was not with the deceased when Rengam Arumugam saw her.

p. 17, li. 1—9. There can be no doubt that the "man" referred to by the deceased was the accused, and that the combined effect of the evidence of these 30 five witnesses established not only that the accused had been in conversation with the deceased but had left her before the murder took place.

## APPENDIX " B. "

GENERAL EVIDENCE RELATING TO THE MOVEMENTS OF THE ACCUSED ON  
THE 15TH MAY.

## RECORD.

- (1) Thomas Fernando said that at about 3 p.m., on the 15th May, he was on the main road, near the spot where it meets the road to Collin Silva's bungalow. He said he saw the accused coming from the direction of Collin Silva's bungalow riding a bicycle with a "white rag wrapped round the handle." He could not say whether it was a parcel or a piece of cloth wrapped round. He said he did not notice the accused carrying  
10 a bundle. p. 19, l. 40.  
p. 20,  
ll. 5-15.  
p. 20, l. 27.
- (2) Julihamy said that at noon on the day of the incident he saw the accused riding a bicycle dressed in a red sarong. He said he noticed blood on the lower portion of the sarong. He went on to say that the blood "appeared to him like human blood," but admitted that he inferred that the blood was human blood after he had been told that "the woman was injured." Whatever he saw could not have aroused suspicion because he said, "I did not suspect the accused when I was informed about the incident." This evidence was on the face of it improbable, but in any case the "blood" could not possibly have been  
20 the blood of the deceased, who was seen by Kitan Nadar at 1.30 or 2 p.m., and had actually spoken to Rengam Arumugam after 2 p.m. p. 21, l. 8.  
p. 21, l. 16.  
p. 21, l. 21.  
p. 21, l. 29.  
p. 21, l. 25.  
p. 15, l. 22.  
p. 17,  
ll. 2-8.
- (3) L. Charles said that on the 15th May, at about 4 p.m., the accused, who was riding a bicycle, overtook him and while within the sight of the witness crept through a wire fence having put his bicycle against a culvert on the road. He said the accused then proceeded to a thicket, "squatted down, stood up and peeped and squatted again" several times. The witness sat on the culvert and actually spoke to the accused. The Police Station was opposite the thicket. He did not notice any blood-stains on the sarong worn by the accused. The witness said  
30 in examination-in-chief the accused had a parcel "attached to the rear mudguard. There was something in his hand." Later in cross-examination he went further and said. "I remember seeing a parcel attached to the bicycle. Besides that parcel he had another in his hand. He took this parcel to the thicket." The thicket was examined that night by Sub-Inspector Gunasekera and constable Jayawardene accompanied by the witness. All they discovered was "that there was nothing to indicate that he (the accused) had gone to answer a call of nature except the fact that the thicket was disturbed." Later, in answer to the jury, the witness said, "He took the parcel to the thicket and brought it back." p. 22,  
ll. 1-16.  
p. 22, l. 16.  
p. 22, l. 23.  
p. 23, l. 20.  
p. 23, l. 29.  
p. 22, l. 31.  
p. 23, l. 11.  
p. 22, l. 38.  
p. 23, l. 31.
- 40 This witness had been convicted of stealing. p. 24, l. 16.
- (4) K. Charles Fernando said that he saw the accused bathing in a stream about 4 or 4.30 p.m. with his bicycle close by. p. 25, l. 10.

- RECORD.**  
 — (5) Mohamadu Mohideen and Seyadu Mohamadu kept a petty shop. The accused had been employed by them and a part of his salary had remained unpaid on the day of the incident. Mohamadu Mohideen said the accused came at " 12 or 12.30 " and enquired for Seyadu Mohamadu who usually paid him. As the latter was not in the shop, the accused borrowed a bicycle to go home and returned at 3.30 or 4 p.m. The accused was arrested later in their shop.
- pp. 25, 26.
- p. 27, l. 15. (6) Seyadu Mohamadu said he saw the accused in the shop soon after 3.30 p.m.
- p. 37. Karunawathie Perera Chandarasekera, a sister of the accused, called 10 by the Prosecution said that on the day of the incident he came for his mid-day meal and left the house at 2 or 2.30 p.m.

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#### APPENDIX " C. "

##### SUB-INSPECTOR GUNASEKERA IN EXAMINATION-IN-CHIEF.

- p. 31, l. 31. " I remember constable Hassim put a question to the injured woman as to who cut her. Then she pointed to Mr. Jayawardena and made a sign (shows). Then Martin Perera asked her whether it was Alisandiri that she referred to, to which she nodded her head. Thereafter she pointed at constable Jayawardena—(To Court—constable Jayawardena was close by—within sight)—she pointed at constable Jayawardena and patted her 20 own cheek."

##### POLICE CONSTABLE HUSSIM IN EXAMINATION-IN-CHIEF.

- p. 30, l. 29. " I questioned her in Tamil the first question but she did not respond to it. After she was bandaged I questioned her again as to who cut her. When I questioned her the second time, Mr. Stanley Jayawardena was present. Then she pointed at him and made a sign (shows the sign) to indicate height. Then Martin who was in the crowd asked her whether it was Alisandiri for which question of his she nodded her head (shows). Then again she pointed at P.C. Jayawardena and put her palm against 30 her cheek."

Rengam Arumugam did not make a statement regarding the signs in examination-in-chief.

In cross-examination he said:—

- p. 17, l. 39. " The police questioned the deceased as to who cut her and what happened. She then beckoned to Martin Perera and then pointed to

Mr. Jayawardena and made a sign—(shows the sign)—to indicate as if somebody was goading a bull. When those signs were made Martin asked her and mentioned the name of this accused, to which she nodded her head. Then 'again she pointed to a constable—\*Weerasinghe—and patted her cheek with her palm (shows the signs).' ” RECORD.

RUSSEL COREA IN EXAMINATION-IN-CHIEF.

“ When Hassim questioned her, she pointed to Mr. Stanley Jayawardena and made a sign by raising her hand (shows). Then Martin who was present put a question to her and asked her whether it was p. 38, l. 5.  
 10 Alisandiri. Q.—Did Martin Perera put that question immediately she pointed to Mr. Stanley Jayawardena? A.—Yes. Q.—Then what did the woman do to that question? A.—She nodded her head up and down. Q.—Did she do anything else? A.—Then there was constable Jayawardena to whom she pointed at and slapped her own cheek.”

S. W. JAYAWARDENE IN EXAMINATION-IN-CHIEF.

“ I remember the constable questioning her as to who cut her. The woman could not speak. When that constable questioned her she pointed to me and made a sign (shows the gesture) to indicate height. (To Court—I was within sight of the woman.) At that time Martin Perera was there p. 29, l. 10.  
 20 standing close by to the woman. At the same time she pointed to the other constable and struck her own cheek gently. When she patted her cheek, Martin Perera who was there asked her whether it was Alisandiri. (To Court—I cannot say whether he questioned in Sinhalese or Tamil, as I cannot remember.) In response to the question of Martin the woman nodded her head (shows). (To Court—Q.—Are you aware yourself that the deceased knew that the accused's name was Alisandiri? A.—Yes. I am quite sure.)”

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\*“ Weerasinghe ” here and in the evidence of Martin Perera, quoted in paragraph 17, appears to be a mistake in the record for “ Jayawardena.”

Appeal No. 30 of 1936.

In the Privy Council.

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**ON APPEAL**  
*FROM THE SUPREME COURT OF THE ISLAND  
OF CEYLON.*

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BETWEEN

ALEXANDER PERERA CHAN-  
DRASEKERA *alias* ALISAN-  
DIRI - - - - *Appellant,*

AND

THE KING - - - - *Respondent.*

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**CASE FOR THE APPELLANT.**

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