

FAMOUS CRIMINAL CASES OF SRI LANKA

(6)

A. C. ALLES

★ THE TALAHEHA MURDER CASE

★ THE TALPE POISONING CASE

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THE MURDER OF THE PUTTALAM WIDOW
A CASE OF IDENTIFICATION
THAT REVEALED A MURDER

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FAMOUS CRIMINAL CASES OF SRI LANKA

Volume VI

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To
His Excellency J. R. Jayewardene
President
of
The Democratic Socialist Republic
of
Sri Lanka

✓

FAMOUS CRIMINAL CASES
OF
SRI LANKA
(6)

✓

S. Kumaranayagam
July '82

BY

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By the same author

The Wilpattu Murder Case — 1975

Wilpattu Sihiwatanaya — 1976

'Insurgency—1971' — First Edition — 1976
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Famous Criminal Cases of Sri Lanka

Volume 1 — 1977
Volume 2 — 1978
Volume 3 — 1979
Volume 4 — 1980
Volume 5 — 1981

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P R E F A C E

The five cases contained in this volume are probably remembered by the average reader only by name. They were however sensational cases at the time of their occurrence and gripped the interest of the public of the day. I have resurrected these cases from the realms of oblivion to remind the people of Sri Lanka that we, in this country, have a wealth of material of sensational criminal cases of absorbing interest perhaps of greater fascination than those recorded in more advanced countries like England and America.

An interested reader of the criminal cases of Sri Lanka, the wife of a distinguished Law Lord in England, has constantly reminded me of the number of instances in this country where a touch of the supernatural has prevailed-cases in which charms, dreams, omens, hallucinations and forebodings of impending disaster have figured prominently. Courts of law are generally sceptical when evidence of supernatural influence is suggested as possible explanations for unusual conduct. I recollect a case at the Avissawella Assizes where the defence suggested that a nasty bash on the head of an old lady of sixty was the result of poltergeist activity. Evidence was led in the case of flying missiles in the kitchen as a result of some supernatural agency, one of which resulted in the head injury to the victim. This defence however failed to convince a practical jury when the accused in the case was convicted of causing grievous hurt to his unpopular mother-in-law and sentenced to three years rigorous imprisonment.

Some of us however have great faith in occult practices such as the reading of horoscopes, the influence of the planets and stars and the use of charms in our everyday life. Perhaps the most remarkable example of this strange phenomena occurred in the Bandaranaike Assassination Case when the death of the late Prime Minister, who was supposed to have been under the influence of the 'maraka' sign, was predicted by one of the conspirators a week prior to the murder.

Four of the five cases in this volume have reference to some aspect of the supernatural. There is a touch of hypocritical religious fervour in the Talahena Murder Case where the accused, who were devout Roman Catholics, prayed fervently to the saints by day while committing unspeakable cruelties to their domestic staff at other times. In the Talpe Poisoning case there was a volume of evidence led at the trial of occult practices-a charming ceremony, the tying of charmed threads, the examination of horoscopes and strange portents and allusions of impending tragedy, some deliberately planned to condition the public to the tragedy that was about to take place and give an aura of mystery to the crime. In the case of the Murder of the Puttalam Widow charms

were used to warn the accused of the growing suspicion against him for the crime. But the most remarkable instance of evidence of the supernatural appears in the last case where an aged father had a dream, prompted by the Pillayar God, which led to the discovery of the mortal remains of his beloved son who was the victim of a foul murder.

In three of the cases reported in this volume members of the President's family have taken a prominent part. In the Talahena Murder case several members of the Jayewardene family appeared as Counsel at the post-trial proceedings and the President's father, Advocate E. W. Jayewardene was a member of the team of lawyers which successfully obtained leave to appeal from the Privy Council. In the Talpe Poisoning case and the Murder of the Puttalam Widow, Justice E. W. Jayewardene as Commissioner of Assize, presided at the trials. It is therefore appropriate that this volume should be dedicated to a distinguished living member of the Jayewardene family and I thank His Excellency for having consented to the dedication of this volume to him. I also have to thank another distinguished son of Justice E. W. Jayewardene, Mr. H. W. Jayewardene Queen's Counsel, for lending me his father's copy of the brief in the Talahena Murder case.

'Sheriton'
Cambridge Terrace,
Colombo 7.
April 15, 1982.

A. C. ALLES.

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Illustrations by HERATH ABAYAWARDANA

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THE TALAHENA MURDER CASE

The case of *King v Loku Nona* reported in the eleventh volume of the New Law Reports is familiar to every student of Criminal Law in Sri Lanka. Although the case was heard nearly seventy five years ago it is one which has stood the test of time, being frequently cited even today in the criminal courts of the island. Loku Nona's case has laid down important principles on the criminal law and the law of evidence for the guidance of judges and members of the legal profession.

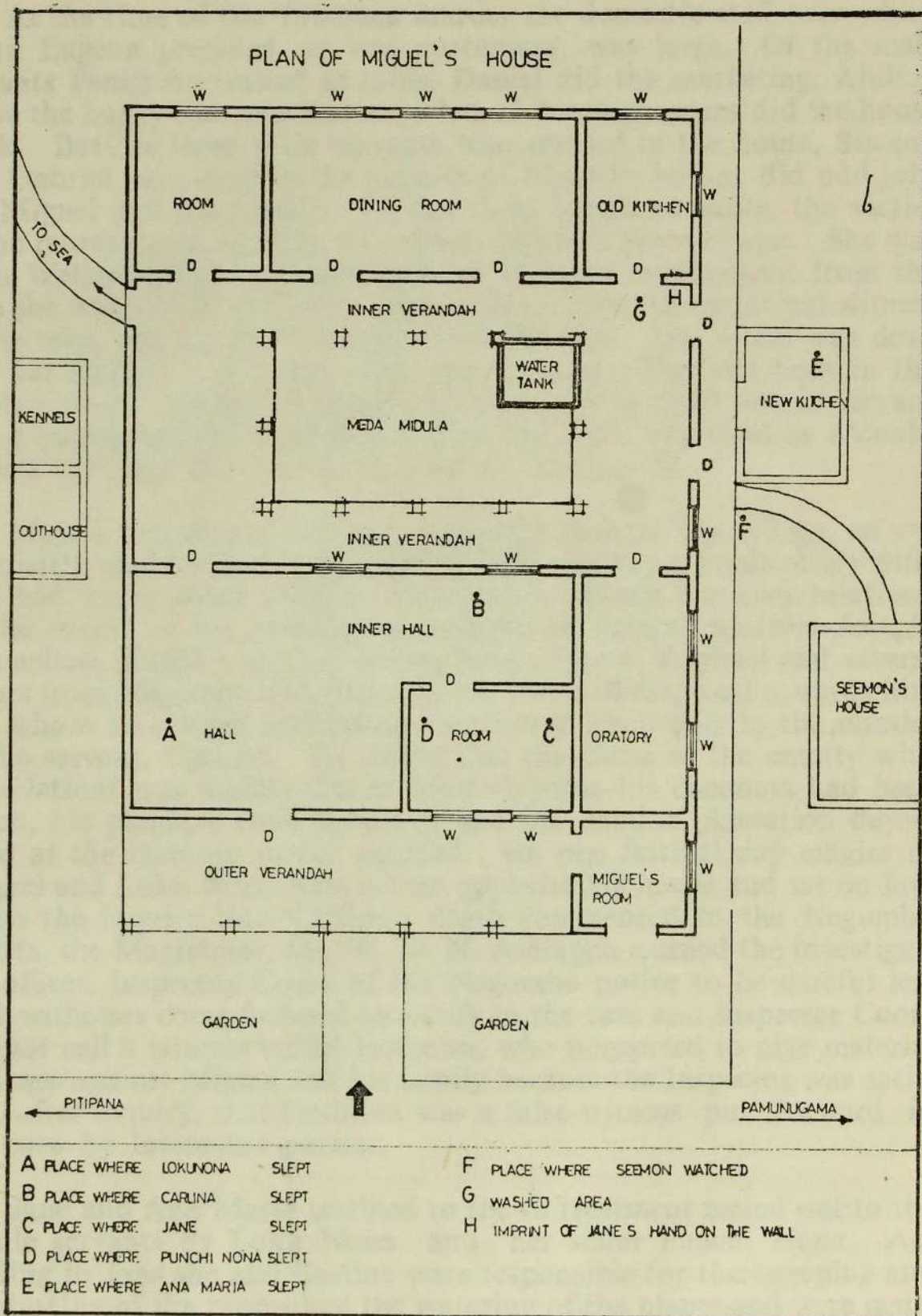
The main participants in Loku Nona's case resided in the picturesque village of Talahena situated on that strip of land flanked by the Pamunugama lagoon on one side and the sea on the other. Talahena lies about three miles south of the important town of Negombo. Two miles further along the coast lies the little fishing village of Pitipana and a mile further, closer to Negombo, is the island of Duwa where even today a passion play reminiscent of the more famous one at Oberammergau in Bavaria is staged during the Easter season. On the other side of Talahena the main road proceeds towards the township of Pamunugama, an important centre in the Jaela electorate. Most of the inhabitants who resided between Pamunugama and Negombo during the time of the Talahena case were fisher folk who professed the Roman Catholic faith and there are even today several Catholic churches existing along this strip of coast which afford eloquent testimony to the deep faith which the residents of the locality attached to their religion.

The Talahena murder case, quite apart from its importance to members of the legal profession, gives some indication of the social conditions that existed in Sri Lanka at the turn of the century. Like the present day the Ceylonese community of the time consisted of both wealthy and poor people but unlike today the manual labourer of that era was treated little less than a feudal slave, especially those employed in domestic labour. The wealthy people owned large extents of coconut land, houses and boutiques and lived a life of luxury. Their cellars were well stocked with local brews and imported liquor. They dined and dined in a sumptuous manner, they owned carriages and horses, had dogs in their kennels and lived a life of ease and prosperity. Domestic labour was easily available and each wealthy household consisted of a number of domestic employees, both male and female who were

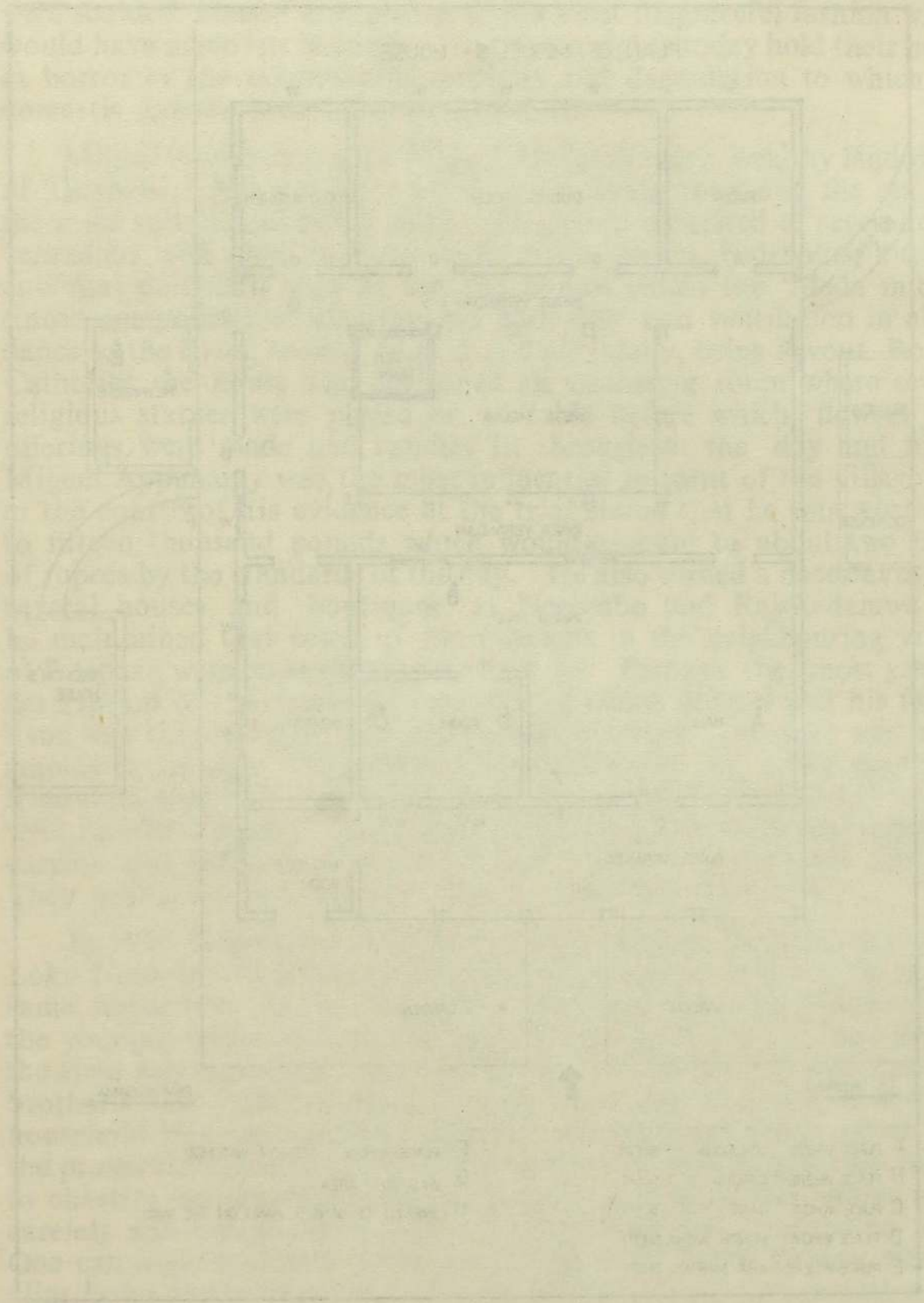
generally poorly paid and continued a life of drudgery for several years having to wait on their masters and mistresses in the most servile fashion. Not infrequently there were little boys and young girls whose duties often consisted of massaging their masters' legs and picking lice from the heads of their mistresses. The servants, especially the young girls were scolded, abused and beaten in the most disgraceful fashion which would have made the champions of human rights today hold their heads in horror at the unspeakable cruelties and degradation to which the domestic labour was then subjected to.

Miguel Appuhamy alias Miguel Mudalali was a wealthy landowner of Talahena. His residence between the main road and the sea was the most substantial house in the village and consisted of several open verandahs with glass shutters, halls, living rooms, bedrooms, kitchens and that delightful part of our old houses called the 'Meda midula' (inner compound) which provided both light and ventilation in abundance to the living rooms. Miguel and his family, being devout Roman Catholics, the house also contained an Oratory-a room where several religious statues were placed on a table before which flowers and offerings were made and candles lit throughout the day and night. Miguel Appuhamy was the most influential resident of the village and in the course of his evidence at the trial stated that he was worth ten to fifteen thousand pounds which would amount to about two lakhs of rupees by the standards of the day. He also owned a coconut estate, several houses and boutiques at Negombo and Rajakadaluwa but he maintained that some of his relations in the neighbouring village of Pitipana were more prosperous than he. Perhaps the most graphic description of the degree of opulence in which Miguel and his family lived was that testified to by the domestic servant Jane who was in his employ at the time. Describing the conditions in which the family lived she stated 'that they were rich people, possessed of land and money, with furniture made of ebony and satin, lined with velvet and possessed carpets and pictures and travelled in a rubber-tyred horse carriage. They drank whisky, brandy, arrack, lemonade and wine'.

In 1907 Miguel was married to Dona Eugena Hamine also called Loku Nona by whom he had a seven year old son. Also living in the same house was Dona Josephine Hamine also called Punchi Nona the younger sister of Dona Eugena, twenty three years of age who at the time was betrothed to Don Girigoris, a relation of Dona Eugena's brother's wife. Dona Eugena ruled over the domestic staff in Miguel's household like the veritable martinet. She very probably never used the proverbial rod of iron but she certainly did use a weapon less harder to chastise her domestic staff who dared to disobey her orders or be careless and indifferent to the tasks that had been allotted to them. One can almost picture the masterful figure of Dona Eugena Hamine alias Loku Nona, large not only in name but also in person with a pur-



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poseful gleam in her eye directing her domestic staff, particularly the helpless females to carry out her orders. It was when she over-reached herself in one of her tantrums that she found herself on the wrong side of the law to be named as the first accused in the Talahena murder case.

At the time of the Talahena murder the domestic staff over which Dona Eugena presided, as was customary, was large. Of the male servants Peregrinu waited at table, Daniel did the marketing, Abilinu drove the buggy cart and Kaitan, a lad of fourteen years did the house work. Besides these male servants who resided in the house, Simeon and Gabriel who lived in the vicinity of Miguel's house, did odd jobs for Miguel and his family. Of the three female servants, the victim in the murder case, Carlina was about eighteen years of age. She was from Weligampitiya and had been in Miguel's employment from the time she was a little girl of six years of age. Jane, the principal witness in the case, was a girl of fourteen from Hatton. Her father was dead and her mother was living with another man. She had been in the employ of the family for nearly two years. The third female servant was a young woman, Ana Maria who had been employed as a cook-woman for eight months at the time of the tragedy.

Miguel Appuhamy was not a popular man in the village, an unpopularity which stemmed mainly from the haughty attitude of his wife, and had made many enemies particularly among his own relatives. In the course of his evidence he referred to several relatives-Joseph, his nephew, Joseph's mother Maria, Juwan Perera, Raphael and several others from Negombo and Pitipana who were ill-disposed towards him and whom he alleged had falsely implicated his family in the murder of the servant, Carlina. He stated that the cause of the enmity with his relations was mainly due to land disputes-his coconuts had been stolen, his plantain trees uprooted and his manioc plantation devastated at the instance of his enemies. On one festival day effigies of Miguel and Loku Nona were set up opposite his house and set on fire. When the inquiry into Carlina's death commenced in the Negombo Courts, the Magistrate, Mr. W. D. N. Aserappa warned the investigating officer, Inspector Coore of the Negombo police to be careful lest false witnesses come forward to testify in the case and Inspector Coore did not call a witness called Hethuwa, who purported to give material evidence against Miguel and his family because the Inspector was satisfied, after inquiry, that Hethuwa was a false witness put forward in the case by interested parties.

Jane and Ana Maria testified to the ill treatment meted out to the female servants by Loku Nona and her sister Punchi Nona. According to Jane she and Carlina were responsible for the sweeping and the dusting of the rooms and the watering of the plants and were cons-

tantly abused and beaten by the two sisters. Conditions became so intolerable that six months prior to Carlina's death, Jane attempted to commit suicide by jumping into the sea. Ana Maria gave evidence to the same effect and added that sometimes as a punishment Carlina and Jane were not given food the whole day.

Sometime early in 1907 Miguel and his family went to Negombo and resided with some relations for a considerable length of time. Carlina and Jane formed part of the family entourage on the occasion. According to Jane, when they were at Negombo, Girigoris, Punchi Nona's fiancée was a frequent visitor to the house and very often spent the entire day at the house. He was in the habit of sleeping in the afternoon in Punchi Nona's room in Punchi Nona's company. This conduct provoked the curiosity of the two young girls who found it an exciting episode in their habitual life of drudgery to which they had been condemned. They were in the habit of peeping through doors and windows of the closed room where the lovers were closeted and watched with delight the kissing, hugging and embracing and other liberties which they witnessed inside the room. They even suggested that acts of sexual intercourse were taking place. The two girls however kept this apparently delectable pastime a secret and did not disclose what was happening to Loku Nona, who was blissfully ignorant of what was taking place. Events became more interesting on the return of the family to Talahena and according to Jane, Punchi Nona refused food and started vomiting and complained of pain. She noticed some months later that Punchi Nona's belly was showing signs of protruberance and apparently all the outward signs of pregnancy were present. One afternoon in April the family suddenly left for Colombo and was away for one month and fifteen days. Carlina accompanied the family on this occasion. On the return of Miguel and the two sisters to Talahena sometime in July, Jane noticed that Punchi Nona's belly had become normal and she was informed by Carlina that Punchi Nona had undergone an operation in Colombo. Whether there was any truth or not in the story that Punchi Nona was pregnant or whether it was the result of the vivid imagination of a young girl of fourteen, there can be no doubt that it was exciting gossip in Miguel's household especially among the female servants, who must have been secretly overjoyed that some catastrophe had fallen on the family. Carlina, in particular, continued to circulate imputations against Punchi Nona's chastity quite freely. The whispering campaign ultimately reached the ears of the two sisters who commenced to treat Carlina and Jane, especially the former worse than ever. According to Jane, Loku Nona could not bear to see the sight of Carlina and constantly scolded and beat her.

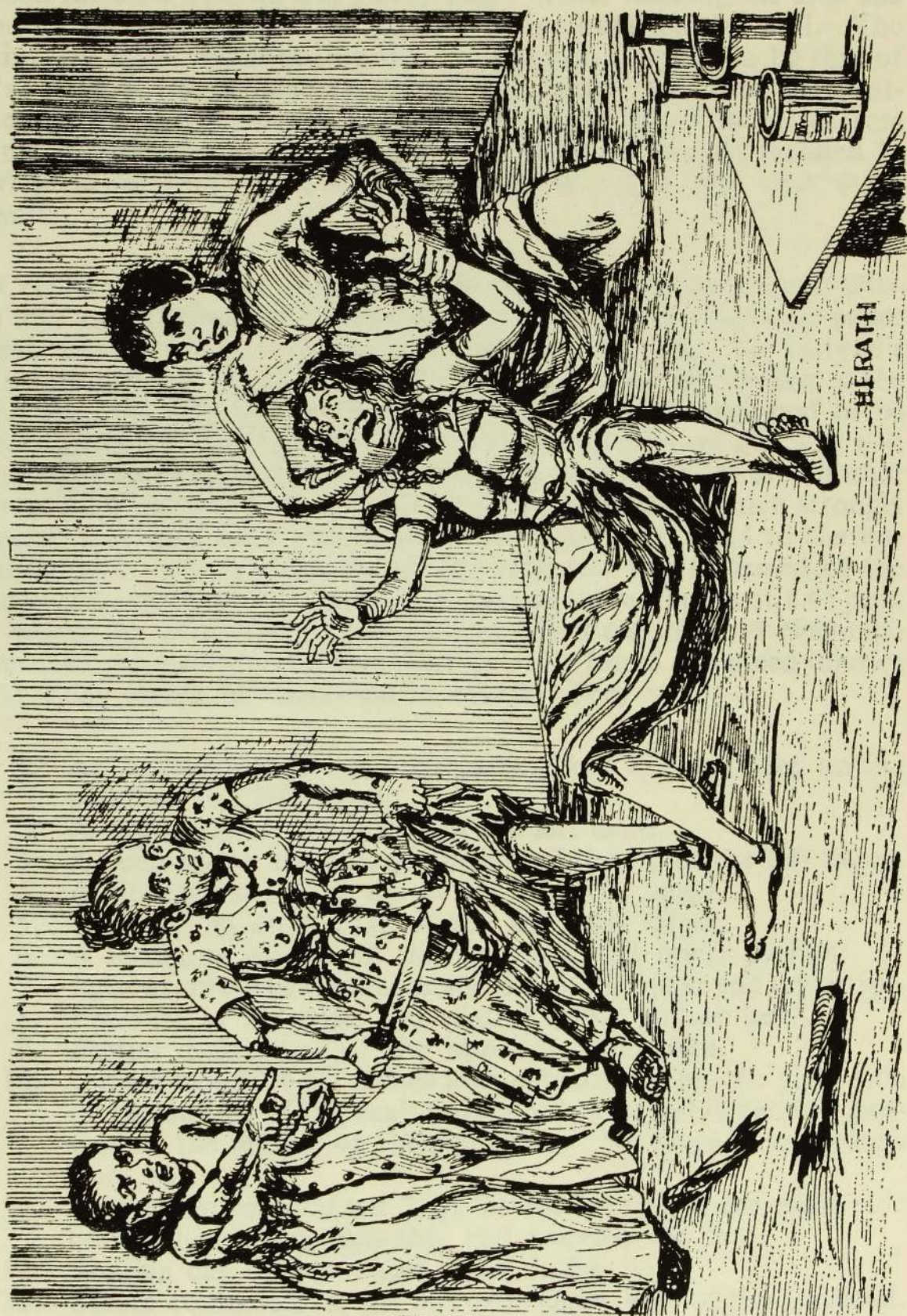
The story that Punchi Nona was pregnant assumed such serious proportions that while the Supreme Court trial was proceeding three

eminent medical men, Dr. T. F. Garvin, Dr. Chalmers and Dr. Sinnatamby examined Punchi Nona with her consent and testified in evidence that the balance of probability was in Punchi Nona's favour that she was a *virgo intacta*. In view of the attendant circumstances—the vomiting, the dislike for food and the apparent signs of a protruding belly — the two servant girls may genuinely have been mistaken about Punchi Nona's condition that she was pregnant, but this inference does not discredit the evidence of Jane of what she witnessed at the Negombo house — the acts of undue familiarity between Punchi Nona and her intended husband, particularly sleeping in the same room. It was because Punchi Nona was apparently considerably distressed at the wild gossip that she was pregnant that she got herself medically examined during the trial in order to vindicate her honour. This gossip, which the two girls cheerfully spread in the village, prompted Loku Nona and her sister to bear deep hatred towards the two servant girls and provided the motive for the murder.

We now come to the events leading to the murder of Carlina, which according to the prosecution took place on the night of July 31. According to Jane about 2 p.m. Carlina was severely beaten with a stick by Loku Nona until the stick broke. The reason for this chastisement was because Carlina had permitted the fowls to eat the boiled rice from the dining table. The dish was dashed to the floor and the rice thrown at Carlina. Carlina was again beaten by Loku Nona that evening for delaying to water the plants.

About 8 p.m. Miguel, his wife and sister-in-law sat for dinner. Miguel's brother Paulu, the Vidane Aratchi of Talahena also joined them. According to Jane the dinner took a considerable length of time and she noticed that liquor was being freely consumed by all who sat for the meal. She saw Loku Nona and Punchi Nona drink whisky neat on three occasions and the quantity of whisky drunk on each occasion was about the size of an egg—certainly a very unusual way of describing a tot. About 10 p.m. the diners rose from the table and while Miguel and Paulu repaired to the front verandah for a chat and a cigar, the ladies proceeded to the rear verandah bordering the meda midula. Jane then went to the new kitchen to have her dinner and found Carlina and Ana Maria there. Carlina and Jane then commenced to take their night meal and Jane had almost finished hers when she was summoned by Loku Nona who was seated on the verandah near the old kitchen with her sister. When Jane arrived she was asked by Loku Nona to fetch Carlina. When Jane went back she found Carlina still having her meal and when Loku Nona's message was given to her she said 'I am still eating. I will come after I have finished my meal'.

Jane returned and delivered Carlina's message to her mistress who angrily told her to bring her immediately. When Jane went back the second time she found that Carlina had finished her dinner and was washing the dishes. On receipt of Jane's second message Carlina said 'I will come after washing the dishes'. Jane again went back and when she delivered Carlina's second message Loku Nona became infuriated and ordered Jane to bring her at once. Jane went back and after much coaxing persuaded Carlina to accompany her. According to Ana Maria who was in the inner room of the new kitchen at the time, not having taken her dinner up to that time, she heard Carlina say as she was leaving 'I am being called in order to kill me'. Carlina then left, lagging behind Jane in a sulky mood carrying a lighted bottle lamp in her hand. Having regard to the quantity of liquor consumed by the two sisters at dinner it seems obvious that they were both rather 'high' at the time. On Carlina's arrival Punchi Nona took the lighted lamp from Carlina's hand and put out the light and closed the verandah door. There was however another light by which Jane was able to see what was taking place. Loku Nona first seized Carlina by the hair and dragged her into the old kitchen. Peregrinu who was present at the time handed Loku Nona a club which she wielded with both hands and struck Carlina on the front of the head. The girl fell down senseless crying 'Amme' (Mother). Punchi Nona then placed her hand over the mouth to prevent further cries. Loku Nona then told Jane 'Bring the knife' and Jane went to the new kitchen and brought a manna knife (chopper). Loku Nona then took the knife and handing it to Punchi Nona said 'Cut her throat'. Punchi Nona commenced the grisly task. By then Carlina had recovered consciousness and offered some resistance endeavouring to hold the knife. Kaitan who had then come on the scene covered Carlina's mouth with his hands to prevent her from screaming. After Punchi Nona had inflicted some cuts on the neck Carlina lay still and was apparently dead. Punchi Nona brought a cloth from the almirah and wrapped it over the head and neck. Loku Nona then got a mat and Peregrinu and Kaitan lifted the body and placed it on the mat. Loku Nona next sent Peregrinu to fetch Simeon and Gabriel who arrived within a short time. Meanwhile Miguel and Paulu who had heard the sounds of a commotion at the rear verandah arrived on the scene and inquired from Loku Nona as to what had happened. They became alarmed and the Vidane Aratchi suggested that the body should be buried in the Talahena cemetery but Miguel interposed and said 'Don't bury it. Throw it into the sea'. After discussion among the members of the family it was decided to follow Miguel's advice that the body should be thrown into the sea. Thereafter Peregrinu, Simeon and Gabriel who had been supplied with arrack were commissioned to carry the body, wrapped in a mat to the rear of the house and throw it into the sea. The Mudalali's kennels were by the sea and Jane heard the dogs barking after Simeon and Gabriel had left with the body. After



HERATH

Loku Nona told Punchi Nona 'Cut her throat'

The National Art Gallery, London, has acquired the
original of the painting by the artist. It is now in the
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the body was removed Loku Nona and Punchi Nona directed Jane and Kaitan to wash the place where the body had lain. Jane did so with water which she took from a tub in the corner of the verandah and swabbed the area with an old gunny bag. While washing the area she leaned on the wall and left the imprint of her hand on the wall. The imprint was later examined by the Analyst who found it to be that of Jane's. It did not contain blood and the doctor who held the post-mortem examination stated that there would be very little blood from the injuries and the washing of the place with water only resulted in the water being discoloured with blood leaving only a faint imprint on the wall.

Carlina's body was washed ashore the following morning at Pitipana and having been recognised as that of a servant employed under Miguel, information was conveyed at 7 in the morning by Gabriel's wife to Miguel and the members of his household of the finding of the body. But Miguel and the members of his household appeared to be quite indifferent to the fate that had befallen their servant girl who had been in their employment for nearly twelve years and did not even bother to go to Pitipana and make any investigations, conduct which strongly suggested that they were well aware of what had happened to the unfortunate girl. The Magistrate of Negombo too was informed of the finding of the body and he held the inquest on the sea beach at 1.45 p.m. after which Dr. Lembruugen, the medical officer stationed at Negombo commenced the post-mortem examination. He found seventeen injuries on the body which he described in detail. They were —

1. An incised wound 1-1/2 inches long and 1/2 inch deep on the palm of the left hand.
2. A slight cut on the inside of the left hand.
3. A deep cut on the palmar surface of the tip of the left finger.
4. A similar cut on the tip of the left little finger.
5. A slight cut on the tip of the left little finger.
6. A lacerated wound on the right and left upper eyelids.
7. Laceration of the mucous membrane of the upper and lower lips.
8. Fracture of the right and central upper incisor teeth.
9. Partial dislocation of the upper incisor tooth.
10. Incised wound 4-1/2 inches long extending from the right side of the middle of the neck tailing off at the left dividing a portion of the muscle on the right side. No large blood vessels were cut.
11. A linear superficial cut 2-1/2 inches long from the right side of the chin tailing upwards and towards the left.
12. Similar cut on left cheek 1-1/2 inches long.
13. Severe contusion on the left side upper part of the forehead.

14. Contusion on the right side of the forehead.
15. Severe contusion on the left side of the back of the head.
16. Contusion of the left shoulder.
17. Contusion on left cheek and bridge of the nose.

The Doctor found linear abrasions on the front of the chest which he stated were probably caused after death. Injuries 1 to 5 on the palmar aspect were probably caused when Carlina attempted to seize the knife which was being wielded by Punchi Nona. The cause of death according to the doctor was concussion of the brain as a result of the contusions. These contusions may have been the result of some blunt instrument like a club being used or may have been caused by the head coming into contact with the rocks in the sea. Of the contusions, injury 14 on the right side of the forehead might have been the result of the blow delivered by Loku Nona on the head as described by Jane, but the more serious contusion was the one on the back of the head which may have been caused as a result of the head coming into contact with rocks. The knife injuries were not fatal, none of the large blood vessels being cut. On a consideration of the medical evidence there was ample support for Jane's version as to the manner in which Carlina was attacked — the contusion on the forehead, the cut injuries on the neck and the injuries on the palmar aspect of the hand.

Jane spoke to only one blow on the head with a club and that too on the forehead and it is therefore possible that although the members of Miguel's family thought Carlina was dead before her inert body was thrown into the sea - Paulu suggested a burial in the cemetery - Carlina was not dead at the time. Indeed the direct evidence of Jane suggests that she was alive after she was struck by Loku Nona because she was able to make an attempt to seize the knife with which she was being cut by Punchi Nona subsequently. Death therefore in probability was caused from an injury on the back of the head when her body was battered against the rocks in the sea. In view of the Doctor's evidence coupled with that of the witness Jane an interesting question of law now arose for consideration, a legal problem that was thrashed out at Loku Nona's trial and subsequently in the Privy Council. Could the sisters have been convicted of murder if the death of Carlina resulted from injuries caused when the back of her head came into contact with the rocks in the sea? This question will be considered later when we discuss the trial proceedings and the post-trial proceedings before the Full Court and the Privy Council.

Inspector Coore of the Negombo police arrived at Miguel's house at 1.30 p.m. and was informed by members of Miguel's family that Carlina had disappeared with her clothes in the morning and could not be traced. They did not disclose to the Inspector at the time that they



They carried the body and threw it into the sea

- 14. ...
- 15. ...
- 16. ...



had already heard earlier that morning that the body had been discovered at Pitipana. The Inspector then examined the house and saw the imprint of the hand on the wall and the wet patch on the verandah which was discoloured and placed a constable on guard. He also found a blood-stained camboy belonging to Carlina in Simeon's house and noticed rags and pieces of paper stained with blood in Miguel's compound. Sand had been strewn along the path leading to the sea. The Inspector also learnt from Jane that on Miguel's orders the club had been removed by Peregrinu. These circumstances were sufficient for Inspector Coore to suspect that Carlina was the victim of foul play and that probably the members of Miguel's household were responsible for Carlina's death and he therefore arrested Miguel, Loku Nona, Punchi Nona, Peregrinu and Kaitan as possible suspects in the murder. He also removed Jane and Ana Maria to the station. Inspector Coore was aware that he would have to face considerable obstruction in his investigations and that Miguel with his wealth and influence would leave no stone unturned to subvert the course of justice. There was already ample opportunity for Miguel before 1.30 p.m. to coach Jane and Ana Maria not to implicate the members of the household and the defence had already been prepared and the story afloat that Carlina had disappeared from the house in the morning taking her clothes with her and had probably jumped into the sea to commit suicide.

Simeon was a fisherman who lived with his wife Christina and their two children just beyond the fence of Miguel Mudalali's compound. He disappeared from Talahena a day or two after the tragedy and was traced by the police only a week later when he returned to the village and was arrested by Inspector Coore close to Miguel's house. When he was questioned by Inspector Coore he came out with a false story that he had gone to Katana to see one of his children by Christina. It was subsequently found that he had no children at Katana. He confessed to the police that he carried the body to the sea but went back on his statement at the trial. He was subsequently charged with suppressing evidence in a murder case and found guilty.

Gabriel was traced and taken to the police station and questioned by the Inspector. He later complained that he was assaulted by Inspector Coore and a constable. While the murder inquiry against the suspects was proceeding the Inspector and an unknown constable were charged before Mr. Seneviratne, Additional Magistrate of Negombo with assault. Gabriel was examined by Dr. Lembruugen who found a bruise on his back. After trial the Inspector was acquitted for lack of evidence but the Magistrate was satisfied that in fact Gabriel had been assaulted. Gabriel was not called as a witness at the trial.

Christina gave important evidence supporting the story related by Jane. She stated that when she was sleeping in a room of her hut with

one of her children she heard the barking of dogs from the direction of Miguel's house. She told her husband, Simeon to light the lamp. He then said 'Never mind, the Mudalali has not gone to bed. Keep quiet' She then raised her head from the mat on which she was sleeping and saw lights from the direction of the Mudalali's house. She was able to watch through the glass shutters in the verandah and noticed lights, plenty of activity and several persons moving about. Her husband then directed her to look after the child and informed her that he was wanted by the Nona. She saw Peregrinu outside her house. He had apparently come with Loku Nona's message to fetch Simeon. Her husband then left the house. It was close upon midnight at the time. She then fell asleep and on the following morning inquired from her husband why he was wanted at that time of the night. He abused her and she noticed that he was the worse for liquor. He did not go out fishing that morning, went for a bath, changed his clothes and left the village. She later learnt that Loku Nona had provided him with some money. He returned only four or five days later when he was arrested by the police.

Ana Maria and Jane were kept at the police station until they gave evidence at the inquiry and continued to be in protective custody thereafter until they testified at the trial. In her first statement to the police Jane did not disclose the fact that she saw Loku Nona strike the deceased on the head with a club or that she saw Punchi Nona cut the neck. According to her first statement she was only asked to fetch Carlina from the kitchen which she did and later went to sleep in the room when she heard the cry 'Amme' but Jane was too frightened to come out and investigate. Later Loku Nona called her and asked her to wash the verandah. But when Jane was later informed that the imprint of her palm was found on the wall she became alarmed and decided to come out with the truth.

Ana Maria supported the evidence of Jane in regard to some of the events that preceded the assault. She stated that on the night of July 31 the men servants had their dinner and retired to sleep at the rear of the house. Then Jane and Carlina had their dinner. While Carlina was taking her meal Jane came with two or three messages that Carlina was wanted by the ladies. She was reluctant to go and sulked and ultimately left muttering that she had a presentiment that she would be killed. While Ana Maria was grinding chillies in the kitchen she heard Carlina's cry of distress but like Jane she too was too frightened to go out and investigate. She later heard the barking of dogs. The following morning she inquired from Jane what happened to Carlina and was at first informed that she was sleeping and later that Carlina had left taking her

clothes with her. She subsequently learnt of the finding of the body. She found the chopper missing from her kitchen and on inquiring from Kaitan whether he removed it was rudely told that there were other knives in the kitchen which could be used for the kitchen purposes.

After the police investigations were concluded non-summary proceedings commenced before Mr. Aserappa on August 1, 1907 and continued until August 26. There were eight persons present in court charged with the murder of Carlina. They were —

1. Miguel Appuhamy
2. Dona Eugena Hamine alias Loku Nona
3. Dona Josephine Hamine alias Punchi Nona
4. Kaitan
5. Peregrinu
6. Simeon
7. Gabriel and
8. Paulu, Vidane Aratchi.

Mr. W. F. H. de Saram, Proctor of Negombo was retained to watch the interests of the suspects while Inspector Coore appeared for the prosecution. During the course of the non-summary proceedings Mr. de Saram desired to interview Jane and Ana Maria who were in protective custody but Inspector Coore, after consulting his superiors, objected to the application. Mr. de Saram then made an application for a writ of habeas corpus but before steps could be taken in respect of the application the evidence of Jane and Ana Maria was led before the Magistrate. It was while the non-summary inquiry was proceeding that plaint was filed by Mr. de Saram against Inspector Coore and an unknown constable for assaulting Gabriel and that case was concluded before the Supreme Court trial. The proceedings in the assault case were produced at the trial. In the course of the inquiry two of the suspects, Miguel and Simeon gave evidence. The latter went back on his police statement and denied that he carried the body and was later charged and convicted of suppression of evidence. Miguel Mudalali maintained that he and his family had been implicated falsely by his enemies with the assistance of the Negombo police.

At the conclusion of the non-summary inquiry the Magistrate reserved his order and on October 10, 1907 committed all eight suspects to the Supreme Court to stand their trial on the charge of murder. In committing the accused the Magistrate remanded the 2nd, 3rd and 4th suspects and released the other suspects on bail in a sum of Rs. 10,000 each. He gave no reasons for drawing this distinction among the suspects.

Of the eight suspects committed for trial only the three suspects who were remanded by the Magistrate were indicted by the Attorney General on the charge of murder and the trial of Loku Nona, Punchi Nona and Kaitan commenced in the Supreme Court before Justice Woodrenton and an English speaking jury consisting of four Europeans and three Ceylonese, on November 11, 1907 and was concluded on November 22. The three accused were defended by Mr. H. J. C. Pereira, Advocate, the foremost criminal lawyer of the day while the Crown was represented by Crown Counsel Fernando and Drieberg. Jane, Christina, Ana Maria, Inspector Coore, Dr. Lembruugen, the Analyst and several others gave material evidence against the accused. Mr. Aserappa, the Magistrate and Mr. Seneviratne the Additional Magistrate, Proctor de Saram and Miguel Mudalali gave evidence of the pre-trial proceedings. The main contention of the defence was that the accused were the victims of a police conspiracy to implicate them falsely at the instance of Miguel's enemies. In the course of Mr. Pereira's final address to the jury he threw out the suggestion for the first time that Jane may have been an accomplice to the murder; that there was no independent corroboration of her evidence either with regard to the attendant circumstances or the identity of the accused; and further that the charge of murder against his clients could not be maintained in the absence of evidence that the fatal blow was inflicted by Loku Nona. At the conclusion of Counsel's address Justice Woodrenton commenced his charge to the jury.

The Judge referred to the case as being both an important and serious one and characterised it as either a brutal murder at the hands of influential and wealthy women of a helpless and friendless servant girl or if that was not true a foul conspiracy against the lives and honour of two innocent women. The case was serious because it was alleged that money and influence were at work. He directed the jury as a matter of law that *whether the fatal blow was delivered by the first accused or resulted from the body coming into contact with rocks, the offence of murder was committed.* He described the third accused Kaitan as the tool of two half-drunk and infuriated women. On the allegation of a police conspiracy the Judge stated that it was largely a matter of conjecture. Miguel had enemies at Negombo and the suggestion was that Jane, Ana Maria and Simeon were coached witnesses. The enemies of Miguel had come to the police station and there was an allegation of extra keenness (not necessarily dishonesty) in regard to the conduct of Mr. Aserappa, Mr. de Saram and Inspector Coore. He posed the question whether the crime would have been committed in the presence of witnesses. If there was a drinking bout as described by Jane would not the safeguards of discretion be relaxed at once?

Dealing with the evidence of the principal witness, Jane he told the jury that if her evidence was true there was immediate provocation

when Carlina refused to come in answer to her mistress' directions on at least two occasions and there was the insolent answer which Jane brought back which would have infuriated the women who already had a permanent attitude of hatred towards the deceased. In dealing with the question that Jane was an accomplice the Judge posed the question whether she knew why the knife was called for. True it is that she sought to give an explanation of her conduct when she said she was confused and afraid and did not know that it was going to be used on the deceased and that if she was aware of the purpose for which it was called for, she would have refused to bring it. But can this be true when she knew that the deceased had already been struck with a club and that the two women bitterly hated the servant girl? Having directed the jury correctly on the law regarding accomplices and the need for corroboration, if the jury held her to be an accomplice, the Judge then proceeded to examine the corroborative evidence. There were the injuries on the deceased which strongly supported Jane's version that she was an eye witness to the assault; there was the evidence of Christina who saw the lights in the house about midnight and heard the barking of dogs; and there was the evidence of Simeon and Christina that Simeon was sent for by Loku Nona through Peregrinu. If Christina's evidence was true that Peregrinu came with a message from Loku Nona and if Jane was an accomplice it brings Jane in the eye of the law into contact with the accused and this brings the accused into contact with the crime. Miguel Mudalali admitted in evidence that his wife told him that over the incident of the fowls and the rice, Loku Nona had beaten both Carlina and Jane. Dealing with the question of Punchi Nona's virginity he directed the jury that the balance of probability was in her favour that she was a virgin. He finally commented on the strange conduct of the members of Miguel Mudalali's household, who though they were aware at 7 a.m. from Gabriel's wife that Carlina's body was washed ashore, did not proceed to the scene and did not attend the inquest.

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Justice Woodrenton's charge was exceptionally fair both to the prosecution and the defence. There was a correct direction on all questions of law and a careful summation of the facts which left no room for complaint. At the conclusion of the Judge's charge the jury retired and subsequently brought a majority verdict by six to one finding all three accused guilty of murder but recommending them to mercy. While deprecating the fact that witnesses were kept in protective police custody, the jury were unanimously of opinion that Inspector Coore had not tampered with the evidence. Thereafter sentence of death was pronounced by the Judge on each of the accused.

The conviction of the accused in the Talahena case was only the prelude to a legal battle that commenced in the superior courts of the

island and finally ended in the Privy Council. At the conclusion of the trial Mr. H. J. C. Pereira made an application to the Judge under the provisions of the Criminal Procedure Code that certain questions of law be submitted for the consideration of the Full Court. In 1907 the Court of Criminal Appeal had not yet been established and the only method by which a criminal case at the Assizes could be considered by a higher tribunal was when the trial Judge referred any question of law for the consideration of the appellate tribunal. Justice Woodrenton was conscious of the important questions of law that needed an authoritative decision by a higher Court and acceded to Counsel's request and submitted four such questions for the consideration of the Full Court. In doing so he expressed his own views for the assistance of the Court. The four questions submitted were —

1. Whether the judge erred in law in telling the jury that in the circumstances of the case, it was immaterial whether the fatal blow was struck by the accused or not.
2. Whether the judge erred in law in not telling the jury that the witness Jane was an accomplice, and in leaving it to the jury to say whether she was an accomplice or not.
3. Whether the judge erred in law in telling the jury that the evidence of Jane, even if she was an accomplice was sufficiently corroborated by the evidence of Christina; and
4. Whether there was any evidence to warrant a conviction in law.

On the first question that murder was committed Justice Woodrenton expressed the opinion that given

- (a) as an inference from all the circumstances of the case as disclosed in Jane's story intention on the part of the accused to kill Carlina being present;
- (b) the infliction by the accused in pursuance of that intention of wounds (contusions causing concussion of the brain) ordinarily sufficient to kill, but from which there might be a recovery;
- (c) in pursuance of that same intention the body while disabled, even if not killed at the moment by these injuries, being thrown into the sea on the orders of the accused; and
- (d) drowning being negatived on the medical evidence

that even if the fatal concussion of the brain took place from contact of the body with a rock in the sea the accused would be guilty of murder even if there might have been recovery from the wounds actually inflicted by them.

On the second question the Judge stated that even if he had been invited by Counsel for the prisoners to hold that Jane was an accomplice he would have declined to do so because in law whether a witness is an accomplice or not was a question of fact within the province of the jury. If the jury believed that Jane was confused and afraid and did not know why the knife was brought she was not an accomplice but if the jury disbelieved that part of her story she may be considered an accomplice whose evidence needed corroboration according to law.

On the third question the Judge's view was that Christina's evidence was not the only evidence of corroboration. Christina directly corroborated Jane on a number of points but quite apart from Christina's evidence he had placed before the jury a body of evidence which fully corroborated Jane's evidence as a whole which tended to fix the commission of the crime on the inmates of the household of which the three accused were members on the night of the murder — the injuries on Carlina's palm, the imprint on the wall, the presence of a blood-stained camboy in Simeon's house, the discovery of rags and pieces of paper bearing marks of blood on the Mudalali's compound, the sprinkling of sand by the Mudalali along the path by which the body was taken to the sea, the removal on the same day of the club by Peregrinu on the Mudalali's orders and the fact that although the discovery of Carlina's body was known to the members of the Mudalali's household between 7 and 8 a.m. on the day of the murder, no member of the household went to identify the body or attend the inquest. He had left it to the jury to decide whether this body of evidence coupled with Christina's evidence was sufficient corroboration of Jane's story, assuming the fact that she was an accomplice.

On the fourth question Justice Woodrenton stated that this position was never taken at the trial. The question for the jury was whether there was or was not sufficient evidence to warrant a jury convicting all three accused of murder.

The case stated by Justice Woodrenton came up for hearing before the Full Court of the Supreme Court consisting of Sir Joseph Hutchinson, Chief Justice and Justices Middleton and Wendt and the judgement of the Court was delivered on December 11, 1907¹. At the hearing before the Full Court the appellants were represented by Advocates H. A.

1—(1907) 11 New Law Reports p. 4

Jayewardene and A. St. V. Jayewardene while the Crown was represented by the Solicitor General, Mr. B. W. Bawa.

The three judges of the Full Court agreed entirely with the directions of Justice Woodrenton and were quite satisfied that on all questions of law, the trial Judge had given the correct directions. In the judgement of Chief Justice Hutchinson he gave a striking illustration which clearly supported Justice Woodrenton's direction on the first point. A shoots B intending to murder him and digs a grave and buries the body; but it turns out that B was not dead when he was buried and that he was suffocated in the grave. He would hold that A murdered B. That would be exactly the case if one assumes that Carlina was not dead when the body was thrown into the sea. 'In our Penal Code' said the Chief Justice 'the word 'act' denoted a series of acts as well as a single act and the striking with the club, the cutting of the throat and the throwing of the unconscious body into the sea were 'acts' within the meaning of the Penal Code. They were all done with the intention of killing. You could not separate them and say 'that this was done with the intention of stunning and that with the intention of killing and the other with the intention of hiding the body'. In 1954, forty seven years later, a case was reported from the High Court of Basutoland in Africa² which had a remarkable similarity to the illustration given by Chief Justice Hutchinson in Loku Nona's case. In that case the deceased was taken to a hut by the appellants and struck on the head with a murderous intention. His unconscious body was then rolled over a small cliff to make it appear that death was an accident. The medical evidence revealed that the appellant did not succeed in killing the deceased but that he died of exposure. Counsel for the appellants submitted that the first act which was characterised by *mens rea* was not the cause of death; and that the second act which did cause death, was not accompanied by *mens rea*. This submission was rejected by Lord Reid in the Privy Council who observed

'that it was too refined an argument to say that, because they were under a misapprehension at one stage and thought the guilty purpose had been achieved therefore they are to escape the penalties of the law'

As Professor G. L. Peiris observed in his treatise on the Principles of Criminal Liability in Ceylon³.

'It is clear that the conclusion reached in Thabo Meli and Loku Nona are in accord with common sense notions of justice.'

2—(1954) Thabo Meli 1 WLR 228

3—(1972) General Principles of Criminal Liability by G. L. Pieris

Justice Wendt who wrote a separate judgement dealt more fully with the third question in regard to the nature of the corroboration. 'It need not be *conclusive* evidence against the prisoner, for then it would not be necessary to call the accomplice at all' said he. He agreed with Justice Woodrenton that the effect of the items of evidence 'tended to fix the commission of the crime on the household of which all three accused were members on the night of the murder'. 'That is to say 'he said' 'the independent evidence had the effect of narrowing the circle within which the offenders have to be sought, down to the limits of the Mudalali's household, and I think that is sufficient corroboration of Jane's testimony to satisfy the rules of practice regulating the matter. It is no objection to the corroborative evidence that it is equally consistent with the Mudalali or Peregrinu having been the guilty party. To require exclusion of that possibility is to require the corroborative proof to be conclusive, which as I have said before, is not insisted on. It is sufficient if it "tends" or "goes" to fix the culprits' identity.'

The decision of the Full Court in Loku Nona's case established an important principle of criminal liability and also authoritatively laid down the law in regard to accomplice evidence and the nature of the corroboration necessary. Had there been a Court of Criminal Appeal in 1907 the Court would surely have come to the same conclusion. Indeed since 1907 the law in regard to accomplices and the nature of the corroborative evidence required to support the testimony of an accomplice has consistently followed the principles laid down in Loku Nona's case.

After the Full Court had affirmed the convictions of the prisoners, the appellants petitioned the Privy Council and sought leave to appeal from the judgement of the Supreme Court. The petitioners were represented by Sir Richard Finlay K.C., Mr. F. H. M. Corbert and Advocate E. W. Jayewardene of the Ceylon Bar. The Board consisted of the Lord Chancellor, Lord Ashbourne, Lord McNaughten, Lord Robertson, Lord Atkinson and Lord Collins⁴. After Sir Robert Finlay had addressed the Board the Lord Chancellor decided to tender the advice of the Board to His Majesty to grant special leave to appeal. The Lord Chancellor remarked that 'there was very strong medical evidence to falsify what had been alleged against Punchi Nona, and if that were so, the absence of motive and the mendacity of Jane were important factors in the consideration of the matter'. The Board also added that they would be ready to hear the appeal as soon as it could be presented. In regard to

the application as to mitigation of the punishment pending the appeal or to the admission of the accused to bail the Board was of opinion that it ought to be addressed to the Ceylon Government or the Supreme Court.

Soon after special leave to appeal was granted by the Privy Council, an application was made on April 8, 1908 by Advocate H. A. Jayewardene on behalf of the appellants to admit the accused to bail pending the hearing of the appeal.⁵ The application came up for hearing before Chief Justice Hutchinson and Justice Wendt. The Court held that the Supreme Court had no power to release the accused on bail in the circumstances of the case. Under the Criminal Procedure Code only the Judge who presided at the trial had the power to admit accused to bail pending the decision of a case reserved by him. That application had been concluded on December 11, 1907. Section 396 of the Criminal Procedure Code which empowered the Supreme Court to admit an accused to bail 'in any case' only referred to persons 'accused' and not to persons who had already been convicted.

The Privy Council appeal⁶ came up for hearing before the Lord Chancellor, The Earl of Halsbury, Lord Atkinson and Sir Arthur Wilson. Sir Robert Finlay K.C., Mr. Frederick H. M. Corbert and Mr. E. W. Perera of the Ceylon Bar appeared for the appellants while the Crown was represented by Mr. Horace Avory K.C., and Mr. Henry O'Hagan. Sir Robert Finlay in addressing the Board dwelt at length on the evidence of Jane and submitted that in view of the inconsistencies and infirmities in her evidence it was not safe that the conviction should be allowed to stand and that there had been a real miscarriage of justice. Mr. Corbert who followed him submitted that Jane's culpability was more serious than Kaitan who took a very minor part in the transaction. He submitted that if Jane stood in the dock instead of the witness stand she must have been convicted, as she confessed to have taken her unwilling fellow-servant into her mistress' presence and brought the knife with which the throat was cut. He also submitted that Jane's story was incredible and had been controverted on every essential point.

Mr. Horace Avory for the Crown submitted that there was ample evidence on which the jury might have acted, and did act, and that there had been no material misdirection on the part of the judge and no miscarriage of justice. He concluded by citing the case of *In re Dillet*⁷ which laid down the rule followed by the Privy Council in regard to a case in which the Privy Council would interfere —

5—(1908) 11 NLR 119
6—(1908) 11 NLR 383
7—(1887) L.R. 12 Appeal Cases 459

“His Majesty will not review or interfere with the course of criminal proceedings unless it can be shown that, by a disregard of the forms of legal process, or by some violation of the principles of natural justice, or otherwise substantial and grave injustice has been done.”

In dismissing the appeal the Lord Chancellor in a five line judgement said

“Their Lordships consider that this case does not come within the principles laid down in Dillet’s case, regulating the circumstances under which Their Lordships are able to advise His Majesty to set aside a conviction. Their Lordships will therefore humbly advise His Majesty to dismiss the appeal.”

With the dismissal of the Privy Council appeal, the appellants had exhausted their legal remedies and had no alternative but to serve the sentence of twenty years rigorous imprisonment to which the capital sentence had been commuted.

There is one unsatisfactory feature in Loku Nona’s case and that relates to the conviction and sentence of the young boy Kaitan. Justice Woodrenton himself described him as ‘the tool of two infuriated and half-drunk women’ and as Mr. Corbert observed in the course of the Privy Council appeal his culpability was less than that of Jane. Even Peregrinu had taken a more positive part than Kaitan. It is not known why the Negombo Magistrate decided to draw a distinction in his case and remand him. Like Jane he was completely under the influence of Loku Nona. It is only hoped that the Executive of the day in the exercise of clemency had reduced the commuted sentence of twenty years rigorous imprisonment imposed on this young lad to a lesser term.

Loku Nona’s case created legal history in our country and as Glanville Williams observed in his analysis of Loku Nona’s case and cases of a similar ilk in ‘these cases the accused intends to kill; his only mistake is as to the precise moment of death and as to the precise act that affects death’⁸

Professor Peiris has observed in dealing with Thabo Meli’s case (supra)

“The question has arisen whether an act committed in certain circumstances with a view to avoiding punishment or detection breaks the causal link. The courts have been confronted by the problem usually in circumstances where the accused strikes or stabs the victim with the intention of killing him but death is caused by a subsequent act of the accused in dealing with or disposing of the supposed corpse, the latter not being accompanied by means rea in the sense of murderous intention”.

The causal link in Loku Nona’s case was quite clear. The striking with a club, the cutting of the throat and throwing the body into the sea at the instance of the accused were all done with the intention of killing, which made all persons who participated in the transaction guilty of the offence of murder.

8—(1960) Criminal Law by Glanville Williams, 2nd Edition p. 174

9—(1972) General Principles of Criminal Liability in Ceylon
by G. L. Peiris p. 80

THE TALPE POISONING CASE

THE ancient city of Galle, the capital of the Southern Province of Sri Lanka, has provided the setting for the two most sensational poisoning cases of this century — the Talpe poisoning case of 1928 and the more recent Kularatne poisoning case of 1968. In the former, the wife of the victim with another were charged and convicted of the murder of the husband by means of prussic acid and in the latter, the husband and two others were charged and convicted at the trial with poisoning the wife by means of arsenic. They were however subsequently released in appeal.

All poisoning cases are of absorbing interest and demonstrate the diabolical methods utilised by poisoners to get rid of their unwanted victims. Both cases are on a par with the great poisoning cases in England and in the Talpe poisoning case the Judge in the course of the trial proceedings made frequent reference to one of the most notorious poisoners in England, Dr. Palmer. All the essential items of circumstantial evidence necessary to prove a case of poisoning motive, means, opportunity and subsequent conduct were present in the Talpe poisoning case.

The poison used in the Talpe poisoning case was a refined one, potassium cyanide. Potassium cyanide when ingested acts on the gastric juice of the stomach and liberates the poison known as hydrocyanic or prussic acid and nine tenths of a grain is sufficient to kill the healthiest individual within a couple of minutes. On ingestion the poison is saltish in taste and has the characteristic odour of bitter almonds. Potassium cyanide which liberates prussic acid in the system is one of the most virulent and formidable poisons known to the chemist.

The victim in the Talpe poisoning case was a young man about thirty years of age called Don Charles Samaranayaka and it was the case for the Crown that it was a relation, Robert de Silva Karunaratne, the first accused at the trial, who had conceived the diabolical plan of introducing cyanide into the victim's drink, which he successfully accomplished through the instrumentality of the second accused, Laura Matilda Samaranayaka, the wife of the deceased. Avarice, greed and financial gain were suggested by the Crown as the motive for the foul murder.

Don Charles Samaranayaka was the illegitimate son of Don Bastian Samaranayaka, a wealthy landowner who owned vast acres of land at Unawatuna in the suburbs of Galle. In the course of the court proceedings Don Bastian's estate had been valued at various sums-six lakhs, three and half lakhs and in the testamentary proceedings at Rs. 136,893/76. Assuming that the computation in the testamentary case was probably an underestimate, Don Bastian's estate must have been worth between two and three lakhs. If this is a fair estimate of his wealth in 1928 it would be reasonable to come to the conclusion that Don Bastian must have been a millionaire by present day standards.

Don Bastian Samaranayaka married Georgiana Karunaratne about the year 1896 but had no issue by her. He lived with his wife in the ancestral house, which has been referred to as the Mahagedera in the course of the murder trial, in the village of Ilukpitiya. Don Bastian commenced to sow his wild oats prior to his marriage to Georgiana and continued with this pastime even after his marriage, but it yielded only a sparse crop and the only result of his amorous adventures in the field of promiscuous sexual relations was the birth of a son, Don Charles by his mistress Susanna. Being his only offspring he was passionately fond of his illegitimate son who was spoilt and pampered by an indulgent father. Don Bastian died on May 18, 1926 but during his lifetime had made three wills. The first will was executed by Notary Abeysinghe, the second by Proctor E. C. Abeygunawardene and the third and final one by Proctor D. G. Goonewardene. In his first will Don Bastian left the life interest in most of his properties to Georgiana. After Georgiana's death the estate was to devolve on Don Charles with a fideicommissum in favour of Don Charles' heirs. In his second will executed in 1918 Georgiana was left only with the life interest in the Mahagedera in addition to a legacy of Rs. 2000 and a monthly allowance of Rs. 50. In the third will executed about a year prior to his death Georgiana's allowance was reduced to Rs. 30 and the entire estate, except for the life interest in the Mahagedera and the legacy of Rs. 2000, was left to Don Charles. Don Bastian also left small sums of money as legacies to some of his relations.

Don Charles never received a proper education, his intelligence was limited and he lived the life of a village boor hardly leaving the boundaries of his village. He had his father's weakness for women and he had a number of mistresses whom he continued to keep even after his marriage. With his father's wealth, which after the second and third wills was due to devolve on him, greedy eyes began to take stock of his position in the marriage market and in spite of his uncouth ways and little education he was being much sought after as a prospective bridegroom. The family most interested in Don Charles' future were the Abeygunawardenes. Proctor Abeygunawardene who executed the

second will was aware of the large fortune which Don Charles was going to inherit and sometime in the early twenties his sister Louisa Matilda was given in marriage to Don Charles. It was a marriage of convenience and those who arranged this luckless and ill-fated union were indifferent about the happiness of the newly-wed couple. It was the persons who were on the periphery of the marriage circle, the outsiders, the persons who watched with greed from the side lines, who hoped to cash in on this unhappy marriage, to which Louisa Matilda was offered as a holocaust.

After marriage the new couple lived at different places and ultimately came to reside at the Mahagedera. At the time of Don Charles' death in 1928 Louisa Matilda or Hilda as she was called by her relatives had four children, the youngest being about an year old. Hilda and her husband were of a completely different social status and the marriage was doomed to failure from the commencement. While Don Charles had no proper education, Hilda had been educated at Richmond Hill Girl's School and later at Southlands College, Galle, one of the foremost girls' schools in the Southern Province. Husband and wife had nothing in common and no interests to bind them together. There was nothing however forthcoming at the trial to indicate any serious disagreement between the parties prior to Don Bastian's death in 1926 and having regard to the fact that three children had been born before that date one may assume that husband and wife got on tolerably well. Of course Georgiana and her relations were not happy with Don Bastian's third will and showed some resentment towards Hilda, but apparently everything seemed peaceful on the surface.

The Abeygunawardenes were also people of substance, though not so wealthy as the Samaranayakas. They belonged to a respectable and well-connected family from Hikkaduwa about seventeen miles from Galle. In 1927 Proctor Abeygunawardene had shifted to his ancestral home, Oropuwatte Walauwwa at Hikkaduwa. He was married to a lady called Srimathie whose father was a Titular Muhandiram owning a considerable extent of land at Katugahahena in Hikkaduwa and her brother was a mudaliyar of Siyane Korale. Up to 1927 the Samaranayaka family at Ilukpitiya and the Abeygunawardene family at Hikkaduwa appeared to be on cordial terms. Although Proctor Abeygunawardene was not pleased that Don Bastian had got his third will executed by a different proctor, he bore no ill will towards Don Charles and visited him and his wife at the Mahagedera. Proctor Abeygunawardene and Srimathie were closely attached to Hilda's children, especially the eldest daughter Neliya who frequently spent some days with her uncle and aunt at Oropuwatte Walauwwa.

Serious problems commenced in the Samaranayaka household after Don Bastian's death. As a result of the devolution of the bulk

of Don Bastian's estate on Charles there was considerable friction between Georgiana and her relations on the one hand and Don Charles on the other. This was further aggravated by the failure of Charles to honour the bequests under his father's will. The legacy to Georgiana was not paid and the monthly payments to her were irregular and Georgiana was compelled to file action in the District Court of Galle to claim her rights under the will. This action was pending at the time of Charles' death and was thereafter struck off the roll. A legacy of Rs. 1000 to a cousin of Don Bastian, Francis was also not paid and a similar sum to Francis' sister, Gimara too was not honoured.

As a result of the strained feelings between Georgiana and Charles, Charles and his family left the Mahagedera soon after Don Bastian's death and went into occupation of a much smaller house at Deniyawatte, situated in close proximity to the Mahagedera. This house was too small to accommodate Charles' family and his large retinue of servants and Charles and his wife had to live under cramped conditions. There was only one bedroom which was occupied by Hilda, her children and the female servants while Charles slept on an iron bedstead in the front verandah.

The disagreement between Charles and Georgiana were trivial compared to the problems that arose between husband and wife after they came to reside at Deniyawatte. Complications first began when Charles commenced to keep several of the servant women as his mistresses while living under the same roof with his wife. One particular ayah, Baby Nona had been Charles' mistress for four years and he had a child by her. In a cramped house this promiscuity on the part of her husband could not have been passed unnoticed by Hilda who, with her genteel upbringing, must have deeply resented her husband's open association with the servant women. Charles was also difficult about money and Hilda was disappointed that she was denied funds for necessities to which she was legitimately entitled. Added to Hilda's travails was the fact that she was a sick woman constantly troubled with fever and stomach complaints. She was subject to convulsions, was a chronic dyspeptic and had been advised by the ayurvedic physician to take brandy practically daily. As a result of the cumulative effect of all these circumstances quarrels between husband and wife became inevitable and very often Hilda left the house with her children and went back to the Mahagedera where, in spite of a cold reception, she continued to remain for several months. This gave a free hand to Charles to carry on with his amorous activities with the female servants more easily.

Whenever Hilda left to stay at the Mahagedera Charles used to visit her and provide for her medicines and household expenses. He had

made arrangements with a trader, Ramanayake to supply provisions to his wife and the bills were settled by him. On these visits to the Mahagedera Charles rarely took a meal and always returned for the night to Deniyawatte.

Charles' constant companion and confidant, first at the Mahagedera and later at Deniyawatte, was a man called Don Alwis Ranasinghe. This man was a brother of Susanna, Don Bastian's mistress and therefore an uncle to Charles. He was the self-appointed caretaker of Charles' property and was obviously a hanger-on who lived on the bounty of Charles. When Charles shifted to Deniyawatte this man accompanied Charles and continued to live at Deniyawatte up to the time of Charles' death. Even after his master's death he continued to manage the properties, receive the income and maintain the domestic staff. When Hilda was appointed administratrix of her husband's estate she had considerable difficulty in getting rid of this unsavoury individual and had to seek the assistance of Court and prosecute him for mischief. Ranasinghe adopted a defiant attitude and claimed that the deceased had left him in charge of the properties. It was when he cut down some jak trees and removed the timber valued at that time at Rs. 275 that Mr. T. M. D. Abeygunawardene, a brother of Hilda charged him with mischief. Mr. Abeygunawardene went with Mr. C. L. Wickremesinghe, the proctor in Charles' testamentary case to the property but in spite of all their efforts were unable to evict him from the land. This man gave material evidence in respect of the murder charge against Hilda, and it was suggested by Hilda's Counsel that he gave false evidence against her because he was anxious to gain control of Charles' estate.

It was while the unhappy and chaotic state of affairs continued after Don Bastian's death that an evil spirit in the form of the first accused, Robert de Silva Karunaratne descended on the village of Ilukpitiya. The Solicitor General in the course of his opening address at the trial described the first accused as a ne'er-do-well.' As Crown prosecutor the Solicitor General was compelled to speak with sober restraint and not paint the man in his true colours as the evil spirit, who with Machiavellian cunning prepared the stage for the drama which resulted in the death of Don Charles Samaranayaka. Robert de Silva Karunaratne was a nephew of Georgiana, being the son of Georgiana's brother. At an early age he left the island to seek his fortunes abroad and worked in partnership with a nephew of Don Bastian, Francis Samaranayaka at a jewellery shop in the State of Johore in the Federated Malay States. After some time the partners quarrelled and Robert left his partner to set up his own business at Kuala Lumpur. This was a failure and he then migrated to Singapore, where he commenced a business but this too met with little success. He was a man of many parts, being conversant with the jewellery business, a man who dabbled in occult

sciences and also had some knowledge of charms and astrology. Six months after Don Bastian's death, having learnt of his aunt's unfortunate plight, he put an end to his chequered career abroad and returned to the island to become the friend, consoler and adviser to his aunt. He had no money, no employment and parked himself at the Mahagedera with the ostensible purpose of protecting Georgiana's interests. The conservative Georgiana looked on her nephew with awe as a man of the world who had experienced the vicissitudes of life outside Sri Lanka and fondly believed that he could help her in her troubles with Charles. Very soon Robert ingratiated himself into the confidence of Hilda, who was equally trusting and found him a sympathetic listener to her problems, which she poured forth to receptive ears in full measure. It was the old, old story of the eternal human triangle but there was no evidence of intimacy between the parties. The murdered husband had neglected the wife, the other had sympathised with her in her troubles and when the husband commenced to be indifferent to the wife's feelings, here was one who not only consoled her but fanned the flames of discontent and frustration until she became a willing tool in his hands in the plot to kill the husband.

When Robert came to reside at the Mahagedera he occupied a room opposite that occupied by Hilda and was in the habit of freely entering her room at all hours and chatting with her for long periods, seated on her bed where she was reclining. Hilda's letters too were written by him — one does not know the reason, when she was an educated person able to attend to her own correspondence — and these acts of undue familiarity continued even when Hilda returned to Deniyawatte for the last time. The suggestion of the Crown was that these meetings and familiarity were a prelude to the far-reaching plans of the first accused to marry Hilda, after getting rid of Charles, and thereby assume control of Charles' estate.

Srimathie Abeygunawardene was a good woman, a devout Buddhist and did much social work among the Buddhist associations in Galle. She was genuinely disturbed at the deteriorating relations between her sister-in-law and Charles and endeavoured to bring about a reconciliation in their marital affairs. At one stage Hilda came and lived with her but Srimathie found Hilda to be a difficult person, probably due to her state of health. Srimathie referred to Hilda as a 'trouble maker', a person who constantly entertained imaginary grievances and on one occasion in a fit of temper Hilda suddenly left the house complaining that she was not well treated by her sister-in-law. Srimathie however was very understanding and did not take umbrage at Hilda's fit of temper and persisted in her efforts to bring peace to Hilda's family life and even wrote to Charles advising him to mend his ways lest some great disaster befall the family. On another occasion she warned the

deceased regarding the frequent presence of the first accused in the house whom, she stated, was obviously trying to alienate Hilda's affections from him and create trouble. It was in consequence of this warning that Charles brought Hilda back to Deniyawatte about a month before the tragedy. Owing to her constant illness Georgiana also found Hilda to be difficult and cantankerous and sometimes Hilda left the Mahagedera with her children and resided with her brothers at Kaluwella and Hikkaduwa. Hilda was more to be pitied than blamed, drifting from place to place with her children with no home to call her own. She was entitled to regard Deniyawatte as her marital home, but how could any self respecting wife with her upbringing tolerate her husband's immoral behaviour which he carried on openly and continue to live with him under the same roof?

Before coming back to Deniyawatte for the last time, Charles had heard of Georgiana's reluctance to keep his wife at the Mahagedera and spoke to his foster mother and requested her to look after her as she was a sick person and made arrangements to provide for her maintenance at the Mahagedera. He had a presentiment that Georgiana and the first accused would do some harm to Hilda and darkly hinted that if anything untoward were to happen to his wife he would insist on a post-mortem examination.

As early as January 1928 the talk of poison appears to have been in the air. Whenever Charles visited Hilda at the Mahagedera he was wary of what he ate and drank, which prompted Hilda to write a curious letter to him. In that letter she concluded by saying —

“Please come this way to see the children. Do not be afraid to come here. As regards the rumour about poison nothing of this sort will happen here. Come without fear about it”.

Why did Hilda write a letter in this strain? Obviously Charles must have had secret fears that the people at the Mahagedera, who were bitterly jealous and angry with him, were planning to harm him. And did the evil spirit of the first accused through the instrumentality of Hilda try to allay any suspicion in Charles' mind? Does Hilda's letter reveal that she was aware that a plan to poison her husband was afoot?

Srimathie Abeygunawardene's efforts to bring about a reconciliation between husband and wife appeared to have met with some success, at least so it appeared outwardly. On February 19, 1928 she invited Charles to preside at the prize giving of the Katugahahena Young Mens' Buddhist Association. Both Charles and Hilda came for the function and Hilda gave away the prizes and Charles promised a donation of Rs. 250 to the Association. After the function Charles, Hilda and their children returned to Oropuwatte Walauwva where the entire family

had dinner with the Abeygunawardenes before returning to Deniyawatte. Everything appeared to be smooth sailing and Srimathie secretly hoped that the troubles between husband and wife would thereafter be settled. But it was an uneasy peace that prevailed and very soon the former state of affairs again commenced.

With an invalid wife cooped up in an over-crowded bedroom and a husband who continued his acts of immorality under the same roof in which he lived with his wife, it was inevitable that bickering and quarrels should continue. Added to this problem were the frequent visits of the first accused to Hilda's bedroom, conduct which by itself savoured of impropriety, even though there were no visible acts of misconduct, and behaviour which was resented by the husband, who in spite of his protests was not able to put a stop to it. As to what transpired at these long conversations between the intruder and the wife must necessarily be left to conjecture but having regard to the events that followed closely thereafter it would be reasonable to conclude that the conspiracy to get rid of the husband was being hatched. Perhaps not only was the method of liquidation by poisoning discussed but the intruder must also have been gradually and insidiously sowing the seeds of poison in the woman's mind and conditioning her attitude to the tragedy that was being planned.

Hilda was helpless and was obviously a willing tool in the hands of the first accused and would have been prepared to play her part in the plan to get rid of her husband on whom she was entirely dependent for all her needs. She constantly needed brandy to alleviate her sick condition, which was not always provided by her husband and in one of her fits of temper she dashed the bag in which Charles stored his bottle of gin and spilt the entire contents. Thereafter Charles was in the habit of keeping his bottle of gin behind the mirror in his wife's bedroom.

Sometimes before a tragedy occurs there are strange and mysterious forebodings of impending disaster. There may be genuine presentiments in some cases or in other cases there may be phenomena, such as the utterance of obscure and mysterious predictions and allusions, the pretence of supernatural dreams, noises or other omens, deliberately calculated to prepare everybody for the outcome of sudden death and to diminish the surprise and alarm which follows such an event. Those who believe in the supernatural may genuinely have dreams and hallucinations of the tragedy that is about to take place. In the Talpe poisoning case there were several instances of this impending disaster, some genuine fears and others, probably deliberately staged to create an atmosphere of mystery.

The stage was now set for the tragedy which took place on April 1, 1928 when Charles was fatally poisoned by the administration of potassium cyanide and the events affecting the conduct of both conspirators assumes a sinister pattern from which the Crown suggested that preparations were in progress for the foul murder of Charles on the fateful day.

In the locality where the Mahagedera was situated lived a jeweller called Adonishamy who carried on his jewellery business in close proximity to the Mahagedera. For the purpose of his jewellery business Adonishamy was in the habit of purchasing quantities of cyanide of potassium from a chemist called Atapattu who had a chemist's shop called the Southern Medical Stores. For nearly ten years Adonishamy had been a customer of Atapattu who supplied Adonishamy with regular supplies of cyanide for the melting of gold and for the purpose of gilding. Under the Poisons and Dangerous Drugs Ordinance chemists were required to enter all sales of poison in the Register of poisons which had to be maintained, but in the case of Atapattu this requirement was followed more in the breach. The Register was rarely entered and still more rarely examined by the authorities and purchases of deadly poisons from Atapattu's shop were made without much difficulty and without adequate safeguards.

About the middle of March 1928 the first accused, who was referred to as a school-master for no apparent reason but probably to equip himself with some status, came to Adonishamy's jewellery establishment with the ostensible object of getting a blue sapphire for a ring. Adonishamy requested the first accused to come in a week's time and the first accused again visited him a week before Charles' death and examined a stone which Adonishamy had for his inspection. The first accused said the stone was too small for his purpose and did not want it. While Adonishamy was putting away the stone in its case he noticed the first accused remove a solid portion of potassium cyanide from his work table. Adonishamy protested but the first accused stated that he required it to destroy bugs and wrapping the cyanide in a piece of paper put it inside his coat pocket. Adonishamy thought no more about the incident until some days after Charles' death, when a detective sergeant of the Galle police inquired from him whether the first accused had removed some potassium cyanide from his shop. Adonishamy got quite alarmed and stated that he did not want to be troubled and after vainly trying to avoid the police was ultimately taken to the Galle police station where he was questioned by Assistant Superintendent of Police, Eliyatamby, to whom he made a statement disclosing the circumstances under which the first accused removed the potassium cyanide from his shop. Obviously as a man who had been working in a jeweller's establishment at Kuala Lumpur, the first accused must have been aware of the legitimate uses and the deadly effects of this terrible poison.

The visit of the first accused to Adonishamy's jewellery shop was not the only occasion when the first accused had been visiting jewellery shops in the neighbourhood. According to the servant boy Peter, about a week before April 1 he accompanied the first accused to another jewellery shop where the first accused wanted a chain made for an amulet. No such chain was made and one does not know whether this was not another pretext to visit another jewellery shop to secrete some potassium cyanide and whether unknown to the jeweller and Peter the first accused did remove some potassium cyanide on this occasion as well.

K. K. Ariyadasa, a trader and astrologer testified that sometime in March 1928 the first accused came to his house and asked him to read a horoscope. The first accused drew a chart-a fact from which Ariyadasa became aware that his client was conversant with the science of astrology and inquired from him how favourable the stars would be for the person whose horoscope he was asked to examine. The first accused remarked to Ariyadasa that the planet was leaving the House on the 28th and inquired what would be the future for the person whose chart he had drawn. Ariyadasa after examining the horoscope informed the first accused that a great calamity would befall the woman's husband after March 28. When Ariyadasa inquired from the first accused to whom the horoscope belonged he was informed that it was that of his sister.

A cultivator, Harmanis had leased some lands from Charles' father Don Bastian and had renewed the lease with Charles on a deed of 1927. Harmanis used to come regularly at the end of the month to meet Charles and pay the rent to his lessor. On March 30, 1928 Harmanis came to Deniyawatte about 11 a.m. and met Charles. After paying his rent Charles asked Harmanis to accompany him to pluck some coconuts. As Charles and Harmanis were leaving the house Hilda came out of the house hurriedly and asked money from Charles to buy some brandy to which Charles replied that she should not take too much brandy. Hilda then got angry and said 'I will not allow you to enjoy the New Year (April 14)' and also added 'May a coconut tree fall on your head'. When Harmanis later heard of Charles' death he appeared before the Coroner that same evening and gave evidence of this threat. Harmanis' evidence on this point was corroborated by one of the servant women, Podinona who also heard the threat and testified to that effect at the trial. Hilda's words may have been an empty threat uttered in a moment of anger but it is an undisputed fact that Charles did not live to enjoy the New Year. Was she aware by the 30th of the arrangements made by her co-conspirator to procure the poison and arrange for the suitable date for the commission of the crime ?

The evidence of Adonishamy, Ariyadasa, Harmanis and Podinona indicate that the two conspirators were planning the death of Charles

in the very near future and this testimony provides strong circumstantial evidence of preparation, means, and opportunity to commit the crime, which took place on April 1.

We now came to events closer to the tragedy. The events of the day prior to Charles' death strongly support the case for the prosecution that the two accused were jointly responsible for the death of Charles.

On the evening of March 31 Hilda had arranged a charming ceremony for herself at Deniyawatte. There does not appear to be any immediate reason why she should have chosen this day for this rather unusual step. Having regard to the fact that her husband was fatally poisoned the following morning, a transaction in which she was later named as a co-conspirator, did she arrange this charming ceremony with the object of safeguarding herself against any possible harm hoping that some supernatural force would afford her a convenient umbrella of protection ?

The charming ceremony commenced about 3-30 in the afternoon and Don Dias, the charmer who lived in the vicinity officiated. The proceedings continued until 7 p.m. When the ceremony was in progress the first accused came to Deniyawatte and remained there for several hours. Hilda was reclining on a mattress which was placed on the floor close to the mirror in her bedroom. There was a bed in the room which she had used previously but about a week prior to April 1 she had decided to adopt the more uncomfortable position of sleeping on a mattress on the bare floor within easy access of the bottle of gin which had been placed behind the mirror. At the conclusion of the rituals the first accused asked Charles for a drink. This was strange conduct on the part of the first accused. According to Podhamy, Hilda's personal attendant, the first accused was not a drinking man and this was supported by the cookwoman Podinona who stated that the first accused never took liquor in that house before that day. This unusual request appears to have surprised both Charles and Hilda. Twice in the course of her allocutus after her conviction, Hilda referred to the fact that she was surprised that the first accused called for a drink on the evening of the 31st.

Charles went inside the room and told Hilda that the schoolmaster was asking for a drink and wanted to know from Hilda the reason for the request. Hilda was however unable to enlighten him. Of course one does not know whether in fact she was feigning ignorance and refrained from disclosing the real reason to her husband. In the absence of any explanation from the first accused, the reason for this unusual request must necessarily be a matter of conjecture. As far as the first accused was concerned it may be that he was hoping to introduce the

poison into Charles' drink that evening and escape detection in view of the large number of persons who must have been present at the charming ceremony. Calling for a drink would also ensure that the bottle of liquor would be available openly for the poison to be introduced. It is also possible that the first accused was preparing the ground for the crime that he had been planned for the following day by examining the lay of the premises, the location of the bottle and what was more important the quantity of liquor available in the bottle. As far as the woman was concerned being a co-conspirator she may have been aware of the general plan for the poisoning of the deceased but not briefed in regard to the details.

Four of the female servants speak to the circumstances under which Charles and the first accused shared drinks that evening. They were Podinona, Podihamy, Lucia and Baby Nona.

According to Podinona when the first accused asked for a drink, Charles came inside the room and asked her to wash two tumblers. The tumblers were washed and placed on the dining table. Charles then took the bottle of gin from behind the mirror close to where Hilda was reclining and taking one of the tumblers and the bottle went to the verandah. Podinona saw nothing thereafter as she went to the kitchen to attend to her culinary duties.

The sequence of events is next spoken to by Lucia, a wet nurse who had been employed by Hilda an year previously. According to this witness Charles took the bottle and a tumbler to the verandah and gave the tumbler to the first accused and then poured out a drink for him. Charles then left the bottle on the teapoy in the verandah and came inside the house, took the second tumbler and went again to the verandah and returned a second time bringing back the bottle and the two tumblers. She saw Charles pouring a drink for himself but did not see him take it. After Charles came the second time the first accused left the house. She is positive that the first accused *had no opportunity to introduce anything into the bottle when it was left on the teapoy.*

Babynona, who was inside the room throughout was positive that Charles had his drink after the first accused had left the house and that he thereafter replaced the bottle behind the mirror. Charles had his dinner about 9 or 9-30 that night about an hour after his drink.

It was the contention of the Crown at one stage that the two accused were jointly responsible for the murder, that either the first accused introduced the poison with the knowledge of the second accused or that the second accused introduced the poison at the instigation of the first accused. But the evidence of the three servant women establishes beyond

reasonable doubt that the poison could not have been introduced by either accused on the evening of the 31st. The first accused might have sought the opportunity to do so in the evening but apparently was not successful.

A fourth servant woman, Podinona testified to another interesting and strange item of evidence. According to her the first accused came to Deniyawatte that evening at the invitation of Hilda and when he did come Charles inquired from Hilda why he had come and was informed that it was to write a letter. A letter drafted by the first accused, signed by the second accused and initialled by the deceased was prepared at Deniyawatte addressed to the Abeygunawardenes at Hikkaduwa. The trader Ramanayake who had come to Deniyawatte to collect his dues from Charles on the evening of the 31st saw the letter being initialled by Charles at the instance of Hilda. This letter played an important role in the events of the subsequent day when Charles was poisoned. It would appear from the contents of the letter that it was a diabolical plan on the part of the first accused to ensure that the Abeygunawardenes would be present the following day when Charles was to be poisoned and hope to rope them in as possible suspects.

Since no opportunity presented itself to the first accused to introduce the poison on the evening of March 31st, it would be reasonable to infer having regard to the events of the following day, that he had passed the poison to his co-conspirator that night to enable her to introduce the poison before Charles partook of his usual drink prior to his midday meal the following day. Whether the poison was to be introduced on the evening of March 31 or on the morning of April 1 the first accused had cunningly arranged not to be present when the poison took its effect. On March 31 he could allay suspicion on himself in view of the large number of outsiders present at the charming ceremony. If the poison was introduced the following morning he wanted to ensure the presence of the Abeygunawardenes at Deniyawatte at the time the poison was taking effect to implicate them as possible suspects. The first plan did not need the active assistance of the second accused, but for the success of the second plan the active assistance of the second accused was essential for the crime that was going to take place on April 1. It would therefore be relevant at the outset to examine the items of circumstantial evidence against both suspects to establish knowledge, means, opportunity and preparation on their part. The motive was quite clear.

The combination of strange and unusual events that took place at Deniyawatte on the evening of March 31st — the arrangement for the charming ceremony, the invitation to the first accused to come to Deniya-

watte to draft a letter, Hilda's change of her sleeping place, the unusual request by the first accused for a drink and the contents of the letter to ensure the presence of the Abeygunawardenes at Deniyawatte the following morning — are all grim forebodings of the crime that was planned by the conspirators for execution the following morning.

We now come to the events of Sunday, April 1 and it becomes necessary to examine in detail the strange conduct of both accused before and after the tragedy which establishes conclusively that they jointly conspired to cause the death of their victim that morning.

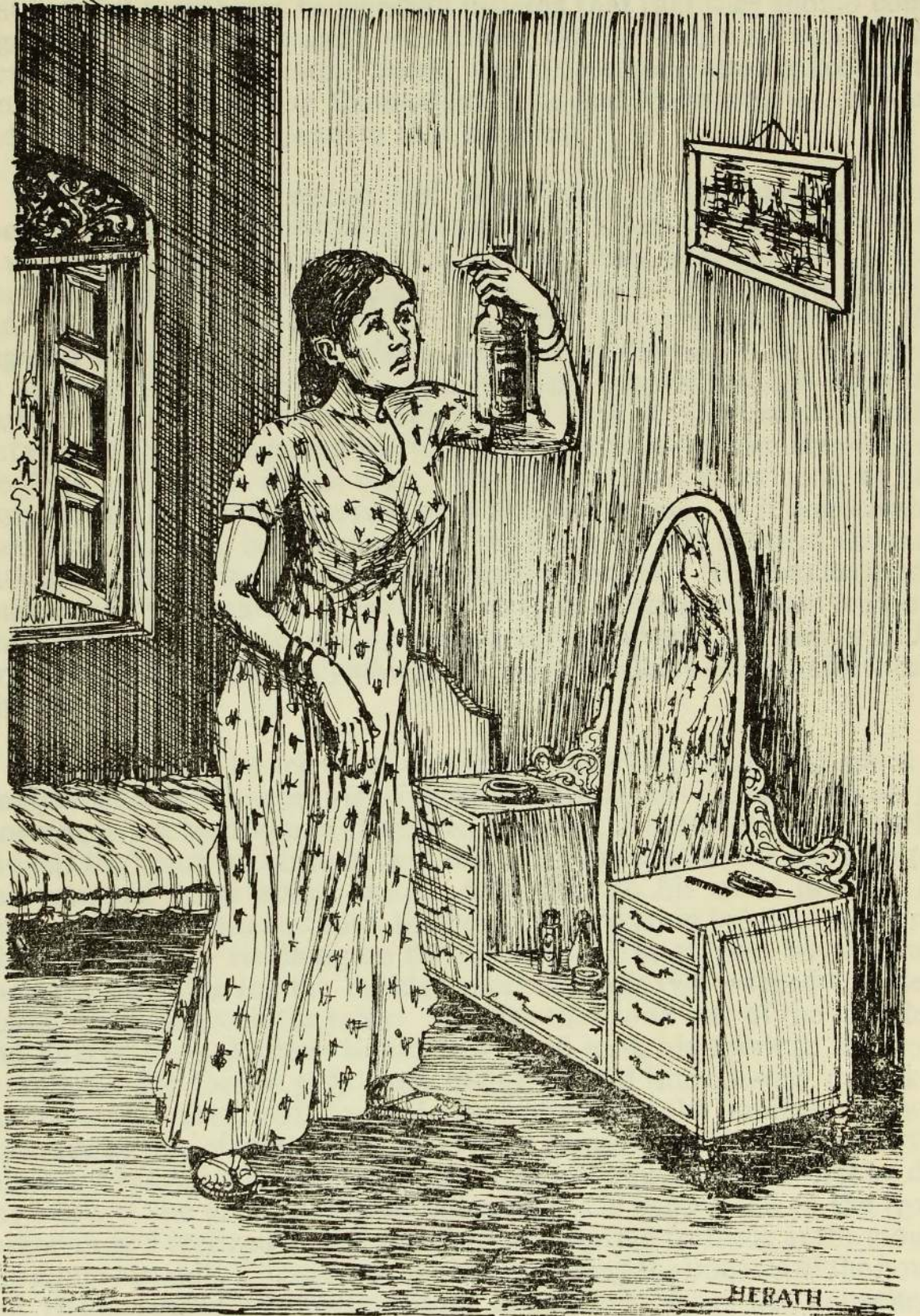
The circumstantial evidence establishes beyond reasonable doubt that it was Hilda who introduced the poison into the bottle of gin before noon on April 1. She had shifted her sleeping position from the bed to the mattress on the floor close to the mirror only a week before the tragedy to be within easy reach of the bottle of gin; being an invalid she was confined to her bedroom and rarely came out to the verandah; in view of her dyspeptic condition she had a superstition that nobody should watch her when she took her meals and she was in the habit of taking her meals in the bedroom alone with the windows and doors closed; and she was aware of her husband's habit of taking a drink before his midday meal. If, therefore, the poison had been passed to her on the evening of March 31, as is very likely, she had every opportunity of introducing the poison into the bottle of gin before midday on April 1. Added to these items of circumstantial evidence there was the direct evidence of Babynona who saw her examining the bottle of gin about 10 a.m. on April 1. This was a damning item of evidence against her. Was she examining the bottle to find out whether traces of the poison which she had already introduced into the bottle were visible in the colourless liquid? Potassium cyanide, it is said, is readily soluble in water and more so in spirits but she may have been examining the bottle to ensure that no traces of the poison were visible. When the Coroner came for the inquest that evening, Babynona did not mention this important item of evidence to him because she had no suspicion against her mistress at that stage but after the cremation she mentioned her suspicions to Podinona and subsequently made a statement to Inspector Vandendriesen of the Talpe police who was conducting the investigations. True it is that Babynona was Charles' mistress by whom he had a child but that was no reason for her to give false evidence against Hilda. She would have been more interested in a living Charles than a dead Charles.

In view of the strong evidence both direct and circumstantial to establish that Hilda was the poisoner, a charge of abetment was added to the indictment against the first accused leaving the substantive charge of murder against the second accused.

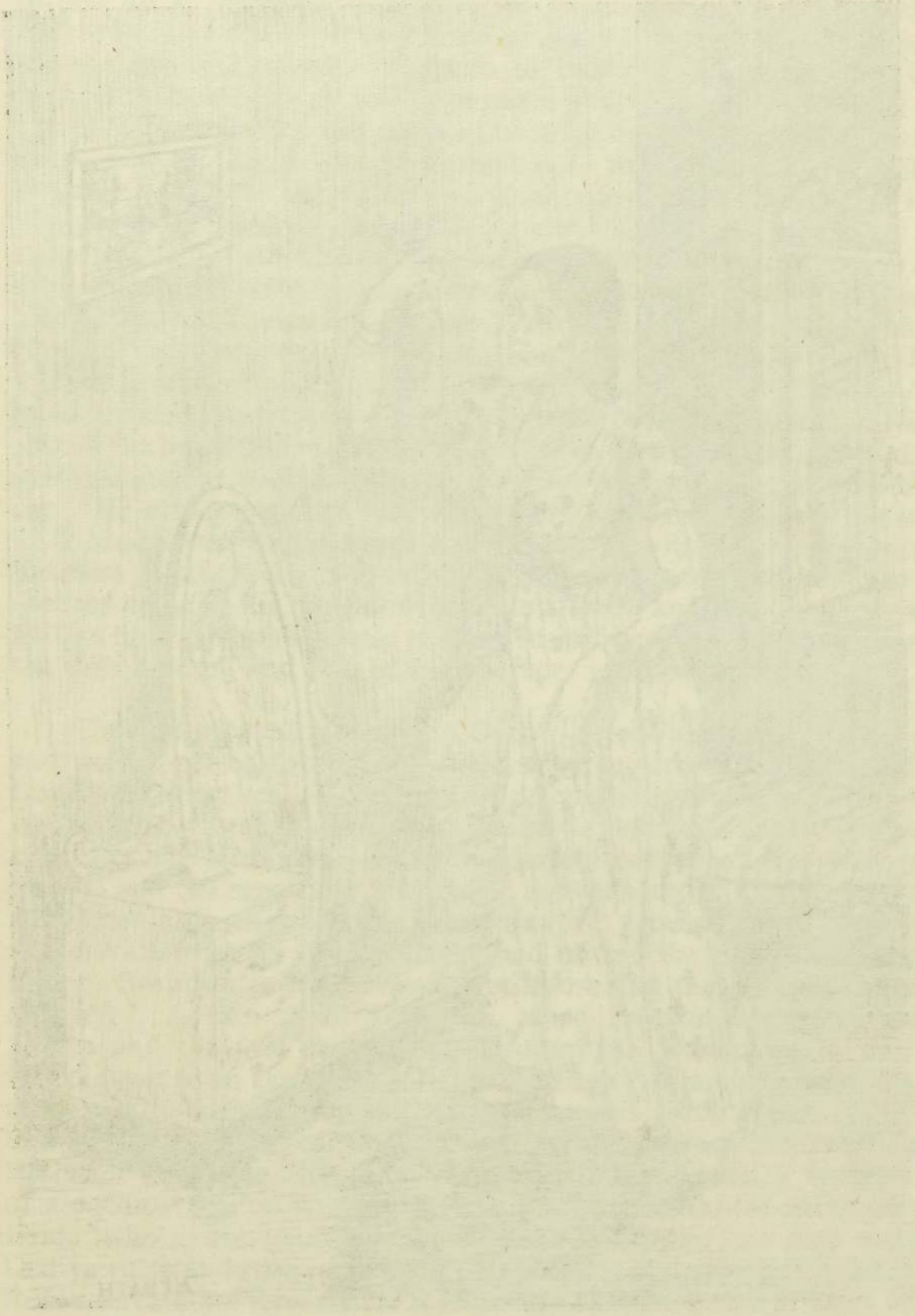
It would now be relevant to examine the conduct of the first accused on the day of the tragedy.

Sometime about 7-30 in the morning of April 1, the first accused turned up at Oropuwatte Walauwwa to meet the Abeygunawardenes. To reach Hikkaduwa at that time he must have left the Mahagedera about dawn and travelled by train to Hikkaduwa station from where he had to find his way to Oropuwatte Walauwwa. He brought with him the letter drafted the previous evening containing the signatures of Hilda and the deceased and showed it to Srimathie and her husband. It was stated in the letter that a virulent type of illness was raging in the village where children died suddenly and that Charles and Hilda were anxious about the health of their eldest daughter Neliya who was spending some days with her uncle and aunt and they wanted her back at Deniyawatte. Subsequent inquiries from the sanitary authorities revealed that there was absolutely no truth in this story and was probably a crude invention on the part of the first accused. According to Abeygunawardene, the first accused insisted that both Srimathie and himself should accompany the child and return to Deniyawatte, as quickly as possible and he worried them to leave for Deniyawatte immediately by car. He also told them that while they were getting ready he would visit Mudaliyar Wanigatunge at Hikkaduwa with whom he had some business transaction. Mudaliyar Wanigatunge testified that the first accused came to his bungalow between 8 and 9 and remained for about half an hour discussing some matters in connection with a land in which the first accused and one of his brothers were interested.

The first accused returned to Oropuwatte Walauwwa about 1 p.m. and was surprised to find that the Abeygunawardenes had not left for Deniyawatte earlier. According to Srimathie she was expecting some visitors and was unable to leave and she was also due to attend a public meeting that afternoon. Proctor Abeygunawardene's car was giving trouble and the repairs to his vehicle took the entire morning and were completed only after 1 p.m. When the first accused arrived at Oropuwatte Walauwwa he stated that he had missed the train. Did he come back to Oropuwatte Walauwwa to make sure that the Abeygunawardenes had left? It was about 1-30 p.m. when Proctor Abeygunawardene, Neliya and the first accused left Oropuwatte Walauwwa by car. At Hikkaduwa town they gave a lift to Andrew Weerasinghe who alighted at the Galle bazaar. On the way the car was being driven rather fast and the first accused cautioned the driver not to drive the vehicle recklessly and remarked 'that today people died all of a sudden by the falling of a coconut tree'. Was there some kind of mental telepathy between Hilda, who had uttered this same threat to Charles two days earlier at Deniyawatte and the remark made by the first accused on this occasion? It was certainly a remarkable coincidence that both conspirators should



She was examining the bottle of Gin



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give utterance to the same threat on two different occasions. When the car reached Deniyawatte junction another strange thing happened. The first accused alighted from the car and said he was going to the Mahagedera. Abeygunawardene was naturally shocked and told the first accused that it was he who had insisted that they should come urgently to Deniyawatte and it was strange that he should not accompany them direct to Deniyawatte. Surely the first accused's strange behaviour can only be explained on the basis that he had knowledge as to what had happened at Deniyawatte that morning ?

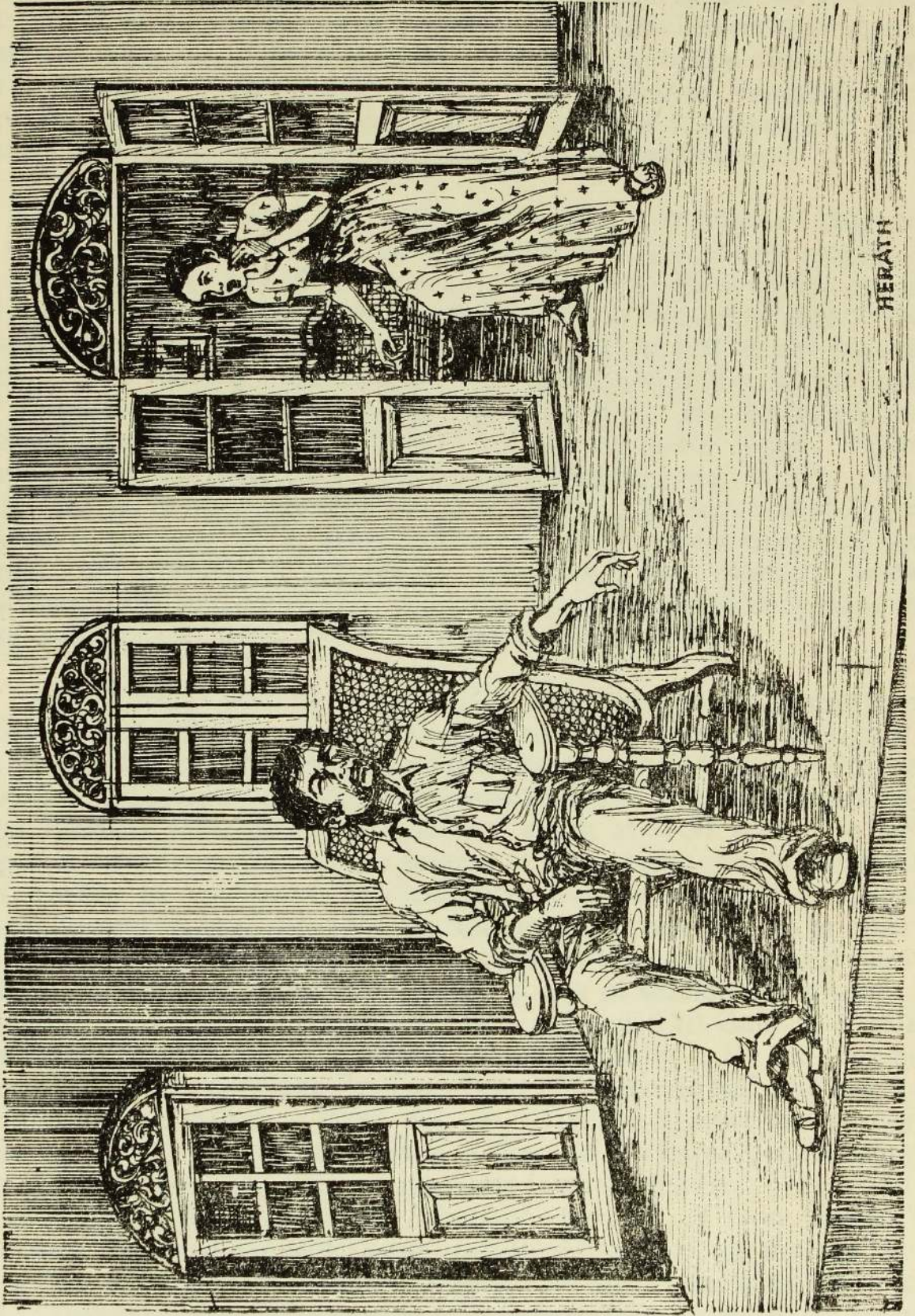
Meanwhile tragic events had taken place at Deniyawatte about noon. When Abeygunawardene reached the house he found the place in utter confusion and Charles dead. It was only later that Abeygunawardene realised the wicked plan of the first accused to ensure that he and his wife would be present when Charles was poisoned so that the finger of suspicion may have fallen on them as the would-be poisoners, an apprehension to which Abeygunawardene gave expression when he testified at the trial that had they hurried back to Deniyawatte at the instance of the first accused his wife and he may have been standing in the dock as suspects in the case. The first accused never came to the house until the Coroner arrived at 4-30 that evening. Is it conceivable that he would have been unaware of the fate that had befallen the man with whom he had been drinking the previous night? The first accused's conduct on the morning of April 1 is an item of circumstantial evidence which strongly militates against his innocence and suggests that he had a large hand in the conspiracy which resulted in the death of the unfortunate Charles.

It would now be relevant to examine the events that took place at Deniyawatte on the morning of April 1. Hilda was closeted the entire morning in her bedroom in close proximity to the bottle of gin. Charles had left the house on his rounds to one of his lands after his morning tea and returned home about noon. According to his usual practice he entered the bedroom and took the bottle of gin from behind the mirror while his wife lay reclining on the mattress. The servant boy Seemon had laid the table for the midday meal and left two washed tumblers placed downwards on the table. Charles then took one of the tumblers and poured the colourless liquid into it and took his drink to the front verandah. He took a gulp from his drink and immediately remarked that it tasted saltish and inquired who had washed the tumblers and was informed by one of the servants that it was Seemon. He then walked to the kitchen verandah, cleared his throat, spat out and remarked that he did not know if the drink had been poisoned. He came back to the front verandah and reclined on the armchair and started frothing at the mouth and could not talk. There was confusion among the inmates of the house and Hilda rushed out of the room crying out 'What has happened?'

What has happened?' and Podihamy added that before she made that inquiry she prefaced it by using the endearing term 'Darling'. Hilda called for garlic and ginger juice and tried to pour it down Charles' throat but the jaws were locked. The charmer Don Dias was immediately summoned and he tied a charmed thread around the neck. Ranasinghe who was out of the house at the time bathing a bull was informed and he came rushing to the house and ordered heated sand to be applied to the soles of the feet and massaged the chest with oil. Carolis Vedamahathaya came on the scene a little while later and prepared two pills dissolved in coriander water which he said contained eighteen ingredients and was used for chills and convulsions but he was unable to force the liquid down the throat. But all these primitive methods of medication were of no avail and could not bring back life to Charles who had gone beyond the ken of human aid. Pandemonium was raised and everyone was wondering what had happened to the unfortunate Charles. A message was sent to the family doctor, Dr. Dadabhoy who arrived at Deniyawatte about 2-30 p.m. and pronounced Charles to be dead. But before Dr. Dadabhoy arrived an incident took place which strongly suggested Hilda's complicity in the plot to poison her husband.

Living close to Deniyawatte was an ex-police constable called Paravitharne, who was a distant relation of Charles. When he was engaged repairing the roof of his house about noon he was informed by Peter, the servant boy that Charles had fallen senseless on the verandah. Paravitharne was aware of the troubles between husband and wife and had advised the parties to file divorce proceedings. Charles had agreed and was prepared to maintain the wife and children but nothing further happened in regard to the proposal. On his arrival at Deniyawatte Paravitharne found Ranasinghe massaging the chest. Charles was unable to talk and Carolis Vedamahathaya was trying to administer some pills without success. Ranasinghe and Paravitharne then carried Charles, who was dead and placed his body on the iron bedstead in the verandah. In the confusion and commotion that prevailed Paravitharne heard one of the servant women remark that the deceased had taken a drink before he collapsed and that he had stated it tasted saltish as if poison had been introduced and thought he was finished.

Paravitharne's police sense then became alerted and he looked for traces of poison. He entered the house and saw the food on the table uneaten and the bottle and tumbler behind the mirror in the room. The bottle appeared to be empty but there was some liquid in the tumbler. He then inquired from those around him whether this was the liquor that the deceased had taken before he collapsed. Immediately Hilda rushed from the verandah and clinging to his arm shouted 'Throw it away. Throw it away'. Paravitharne pushed her off and left the bottle and the tumbler on the dining table and prevented anyone from



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He started frothing at the mouth

taking them. At the time Hilda tried to seize the bottle and the tumbler Ranasinghe too was alerted. When Dr. Dadabhoy arrived fifteen minutes later Paronavitharne gave the bottle and tumbler to him. Hilda, having failed to take the bottle and tumbler from Paronavitharne must have realised that the game was up and sat on the mattress and commenced to weep. The evidence of Paronavitharne and Ranasinghe, in regard to Hilda's attempts to snatch the bottle and tumbler, was damning evidence against her and when Inspector Vandendriesen arrived at the house in the evening, Paronavitharne informed him that he suspected that it was Hilda who had poisoned her husband.

Dr. Dadabhoy sealed the bottle and tumbler and removed them to the Galle police station where he handed them to the reserve sergeant. Dr. Dadabhoy also stated in evidence that when he came to the house and found Charles dead, Hilda pleaded with him and asked him to do something but by that time Charles was beyond the aid of any human agency. The Judicial Medical Officer of Galle, Dr. de La Harpe held the post-mortem examination the following day. He described the deceased as a well nourished subject about thirty years of age. There were no marks of violence on the body but the fingers were tightly clenched. Death he said was due to poisoning and he sent the stomach contents to the Analyst for examination. Dr de La Harpe expressed the opinion that the taste of cyanide was saltish and he suspected cyanide poisoning which was confirmed when the Analyst identified cyanide or prussic acid in the bottle of gin, the tumbler and the viscera.

The first police officer to arrive on the scene was the police headman of Metaramba. Hilda made a statement to him but refused to sign it. The Vidane Aratchi of Talpe arrived next but Proctor Abeygunawardene prevented him from conducting any investigations. Inspector Vandendriesen received information of Charles' death at 4-30 p.m. He left the police station at 4-30 and was present at Deniyawatte twenty minutes later. When he arrived at the scene there was considerable confusion and excitement and he was unable to conduct any investigations or ascertain the cause of death. He did not realise at the time the seriousness of the situation and considered it to be a case of suicide and owing to his inability to conduct any investigations proceeded to Galle to obtain instructions from his superior officer, Mr. Eliyatamby. By the time he returned to Deniyawatte the Coroner, Gabriel Jayetileke had commenced the inquest proceedings. There was no evidence against any suspect at that stage. The first accused gave evidence at the inquest proceedings and referred to the family disputes and stated that the relatives were jealous of the deceased because he had inherited the bulk of Don Bastian's estate and therefore angry with him, insidiously suggesting thereby that one of the relations may have been responsible for the death of the deceased. Two of the servant women gave evidence and referred to the quar-

rels between husband and wife but made no mention of anything in regard to Hilda's conduct because they did not suspect her at that stage. At the conclusion of the inquest proceedings the Coroner announced his finding that the deceased had died of poisoning and directed the police to make inquiries. Soon after the inquest proceedings there was a story current that Charles may have committed suicide but there was nothing to support this theory. He left no letter or other document indicating that he wanted to take his own life. He had no financial or other worries and was described at the trial as a cool-headed man. Moreover temperamentally it seems most unlikely that he was the type of individual who would have been so sensitive as to ever contemplate suicide.

When Vandendriesen returned to Deniyawatte about 8 or 8-30 p.m. he found three proctors from Galle at the house. They were G. E. Abeywardene, E. C. Abeygunawardene and Hector Pieris who were all interested in Charles' affairs. The boxes, trunks and letters belonging to Charles were taken charge of by Proctor Abeygunawardene. Vandendriesen then commenced to record the statements of the servant women, Podinona and Babynona. It was only then that he was convinced it was a case of murder. The suspicions against Hilda commenced to grow when Paravitharne tried to elbow his way through the crowd and make a statement to the police officer and was being obstructed by the crowd. He shouted that Hilda tried to snatch the bottle and the tumbler from his hands but was forcibly prevented from making a statement to the police. Vandendriesen's suspicions that it was a case of murder were confirmed the following day when he recorded statements of the four servant women Podihamy, Podinona, Lucia and Baby Nona in detail when they were brought to the police station by Ranasinghe. Paravitharne's statement too was recorded the following morning. Thereafter Mr. Eliyatamby directed Detective Sergeant Suwanchi Appu of the Galle police to assist Inspector Vandendriesen in his investigations.

After the poison ingested was identified as potassium cyanide the investigating officers made inquiries for the source of the poison and A. S. P. Eliyatamby directed Suwanchi Appu to make inquiries from the numerous jewellery establishments in the city since he was aware that cyanide was commonly used by jewellers for the purposes of their trade. Extending from Pettigalawatte in the Galle bazaar up to Unawatuna along the Galle road there were several jewellers who plied their trade. Suwanchi Appu visited all these establishments and made discreet inquiries whether the first accused had visited any of these places recently and on April 19 his efforts were rewarded when he visited Adonishamy's establishment at the Eramudugaha junction. He went to the jewellery shop in civilian clothes on the pretext of having a ring tested and casually

inquired from Adonishamy whether the first accused came to his shop and removed some chemicals. Adonishamy by that time was aware that the poison used on Charles was potassium cyanide. He became evasive and showed signs of fright and said he could not be troubled. Suwanchi Appu then knew he had struck oil and left the shop intending to come later. Adonishamy locked up his shop and only came to work about 11 a.m. the following day and learnt that the police were looking for him. He saw Suwanchi Appu come on his bicycle and was informed that he was required to come to the police station by Mr. Eliyatamby who recorded his statement.

From Adonishamy the police were able to trace the chemist's shop from where the cyanide was purchased. Adihetty admitted that Adonishamy had purchased cyanide for him for several years and as a long standing customer that he had been lax in regard to the entries in the poison register. He had got alarmed after he learnt of Charles' death as a result of cyanide poisoning and admitted that with his knowledge his assistant had altered the last entry regarding the sale of cyanide to Adonishamy from 'cyanide' to 'germicidal angiers'

Once the source of the poison was traced the police were able to build up a strong case against both accused and on April 26, 1928 A. S. P. Eliyatamby filed a plaint in the Magistrate's Court of Galle charging both accused with the murder of the deceased. The non-summary proceedings commenced before Mr. C. E. de Pinto, Magistrate of Galle and continued for several days. At the non-summary inquiry the first accused was represented by Proctor J. N. Goonetilleke while Mr. T. N. Mendis, Advocate and leading criminal lawyer of the Galle Bar instructed by Proctor E. M. Karunaratne appeared for the second accused. During the course of the non-summary inquiry the second accused was more often in hospital than in the remand jail because of her sick condition and was ultimately released on bail in a sum of Rs. 10,000. The non-summary proceedings were completed on July 23, 1928 after which the record was forwarded to the Attorney General. After the Attorney General had issued further instructions to the Magistrate which had to be complied with to conclude the inquiry, both accused were committed on August 15, 1928 to stand their trial for murder before the Supreme Court at the Southern Assizes at Galle. In view of the importance of the case it was subsequently transferred from the Southern Assizes to what was then called the Metropolitan Assizes at Colombo.

The trial in the Talpe poisoning case commenced before the Honourable E. W. Jayewardene, Commissioner of Assize and a special jury with Mr. P. C. S. Fernando as Foreman on October 21, 1928 and was concluded after eight working days on November 2, 1928. It is a well known

convention that in all poisoning cases a Law Officer of the Crown leads for the prosecution and in the Talpe poisoning case Mr. Stanley Obeyesekere, Solicitor General, King's Counsel led for the Crown assisted by Crown Counsel R. F. Dias (later Justice R. F. Dias of the Supreme Court). The first accused Robert Karunaratne was defended by Advocate T. F. C. Roberts, the son of a distinguished member of the Ceylon Civil Service and an eminent District Judge, Mr. T. W. Roberts with Mr. Earl Wijewardene (later Commissioner of Assize) instructed by Mr. J. W. Wijesinghe. Mr. F. J. Soertsz (later Sir Francis Soertsz of the Supreme Court) with Advocate T. N. Mendis instructed by Proctor C. L. Wickremesinghe defended Louisa Matilda Samaranayaka, the second accused.

After the Solicitor General had opened his case he called his array of witnesses which included Mr. and Mrs. E. C. Abeygunawardene, the servant women employed at Deniyawatte, the jeweller Adonishamy, Adihetty the chemist, Paronavitharne, Ranasinghe, Dr. Dadabhoy, the police officers and some formal witnesses and closed the case for the prosecution. He then tendered some of the prosecution witnesses whom he did not call including Georgiana Samaranayaka, for cross examination. No evidence was led on behalf of the defence by either accused. The case was bitterly fought, no quarter being given by either side and there were several skirmishes between Counsel for the defence and the Judge. One particular incident is worthy of reproduction. When Counsel for the second accused was cross-examining Sergeant Suwanchi Appu he inquired from him on what date he had questioned the witness Podihamy whereupon the witness replied that he took her to the garden and recorded her statement. Mr. Soertsz then, with his wonderful gift of repartee, told the Sergeant that he was not interested whether he questioned her in the garden or up a tree, which provoked a loud titter among the public in court. This appears to have annoyed the Judge who characterised Counsel's question as being vulgar. Counsel protested that he saw nothing vulgar in the question and that he was not responsible for the reactions of the public, while the Judge maintained that it was vulgar to suggest that a woman was taken up a tree. After further cross talk between Counsel and the Judge, Counsel made the unpardonable remark that the Judge appeared to be taking advantage of his position on the Bench which was naturally deeply resented by Justice Jayewardene who ordered Counsel to immediately withdraw the remark which Mr. Soertsz had no alternative but to comply with and to tender an apology to Court. But Mr. Soertsz, probably with some justification, insisted that his question to Suwanchi Appu did not savour of vulgarity. The Judge having accepted the apology of Counsel, the breeze ended and the trial proceeded. This little incident is an example of the mild breezes that occur in the course of an important trial when the tension of defending an accused on a capital charge is particularly severe and when Counsel are apt sometimes to be abrupt

with their remarks. But this seeming annoyance is only for the nonce and the relations between Counsel and the Judge continue to be harmonious thereafter. There is never any acrimony or bitterness in the relations between Counsel on either side or between Counsel and the Judge after the proceedings are concluded. Indeed in the course of the final summing up Justice Jayewardene paid a generous tribute to Counsel for the defence for the able manner in which they had conducted the defence. This good fellowship between the Bench and the Bar speaks eloquently for that sense of camaraderie which always exists between the Bench and the Bar without which the administration of justice is bound to suffer.

At the conclusion of the addresses of Counsel, the Judge commenced his charge to the jury, which lasted two hours. He explained to the jury the principles of law in regard to circumstantial evidence and directed the jury that the old rule of law propounded by Sir Mathew Hall and Lord Coke that nothing short of direct evidence was sufficient to found a conviction has now been exploded and quoted Sir James Stephen who said that

“if the circumstances are such as to make it morally certain that a crime has been committed the inference that it has been committed is as safe as any other problem.”

After dealing with the law he summed up the items of circumstantial evidence against each of the accused. He referred particularly to the forebodings of impending disaster — the letters sent by Hilda, the letter taken by the first accused to Mrs. Abeygunawardene on the day of the tragedy, the dark and sinister threats of the second accused to the deceased on the day he refused to pay for the brandy, the mysterious allusion made by the first accused when he was returning by car to Deniyawatte on April 1, his visits to the astrologer, the charming ceremony — all of which he said were indications of the catastrophe that was going to take place in the near future and to prepare the public for the impending tragedy. ‘Criminals’ said the Judge ‘had certain characteristics. However dangerous poisons might be, there were various ways of finding out criminals. The human mind was a curious instrument. It reacted to all kinds of impressions and feelings. There were cases known of people about to commit crimes making such predictions’. He then proceeded to describe the first accused as a man learned in the occult sciences. He could read horoscopes. He had been in a Kuala Lumpur chemist’s shop where he knew the potentialities of deadly poisons. He next dealt with the evidence of Paranavitharne and posed the question whether they could or could not accept his evidence with confidence. Was the conduct of the second accused on that occasion that of an innocent person or was it due to the knowledge that there was poison in the bottle? She could not have thrown it away herself for fear of

being detected by the servants. Why did she sleep close to the mirror so near to the bottle of gin? Most people putting poison into a bottle would expect it to dissolve. Putting it into gin was in the nature of an experiment. She might have wanted to see if there was a sediment and if so keep it continuously in motion. He then dealt with the evidence of Adonishamy and the letter brought by the first accused to the Abeygunawardenes which might have been to incriminate them. 'It was too much' said he 'to attribute all this to the second accused. It was not her mind. It was the mind of the first accused. Was it the mind of the woman or the machinations of the mind of the first accused?' he concluded.

It was quite clear from the summing up which way the mind of the Judge was working and at the end of the Judge's charge, the jury retired to consider their verdict, which they brought after deliberating for half an hour. They found the first accused unanimously guilty of abetment of murder and the second accused guilty of the substantive offence of murder. They added a rider in respect of the second accused to the following effect, —

"Taking into consideration the state of health of the second accused and the circumstances which prompted her to do the deed, namely her unhappy married life and the influence which the first accused had upon her, we recommend her to mercy".

Before sentence of death was passed on both prisoners the Judge inquired from each of them whether they had anything to say before sentence was passed. The first accused made a short statement and the second accused a long and rambling address in which she repeated herself several times.

The first accused in his allocutus said :—

"I did not do this. Had he lived I would have profited. His death is my loss also. He was my cousin. Had he lived he would have been of service to me. When he was alive he was of use to me. His estate profited me and his death is a loss to me. I had no idea of marrying this woman. If I wanted to marry I could have married another woman. I did not do any of these things with the idea of marrying this woman. If my cousin had been alive he would have been of use to me. I do not know any of these things. All the evidence against me was the testimony of false witnesses. They were angry with me because I came from a foreign country but I was in that place to help my aunt."

The second accused commenced her statement in a calm and deliberate manner and stated —

"This man (referring to the first accused), never came to our house before this and taken a drink. That night he came home and after writing a letter, he and my husband had a drink together. Leaving the bottle outside my husband came into my room twice to take some cigars as well as some money. There

was no necessity for me to have killed my husband. If anything happened to him there would be nobody to look after me and my children. I was sick for seven years. He had spent a lot of money on my sickness. There was no necessity for me to have killed my husband and I may say that I am a person leading a life of charity. After the cremation of my husband my brother took me and my children away from the place as an uncle of the deceased husband was angry with me. My brothers were afraid some harm might be done to us. The relatives of my husband are angry with me. The servants at Deniyawatte told me that the first accused and two others intended to give poison to my husband and my husband told me he was afraid to live at Mahagedera. There was a letter written about a year ago that something would be done and that my husband would be killed. I am a woman who has done much charity. I did not break an egg. How much more therefore should I care for my husband? I belong to a respected family I have my brothers and sisters to think of. I do not do this sort of thing. As I was an invalid at Mahagedera I got the first accused to write my letters and all these letters were written in the presence of my brother-in-law or aunt. As I was feeling sick at Deniyawatte I had to go and live at Mahagedera. I will never do such a thing. I am a woman with four children. If these children lost their father they would have nobody to look to. I had nothing to do with the first accused anyway. If I had anything to do with the first accused the deceased would have chastised me. All the servants at Deniyawatte are angry with me. I have never seen Paranavitharne before and never tried to push him away. I had petty differences with my husband mostly about the upbringing of my children. My husband's uncle is a very poor man and after my husband's death said several times that if I was condemned for the offence he would be able to enjoy my husband's estate and take charge of my children. I have been an invalid for seven years owing to my sins and karma

It is the first accused who came to drink that evening. On that day my husband told me 'Schoolmaster wanted a drink'. He talked to the schoolmaster and both had drinks together. Leaving the bottle outside my husband once came in for cigars. My husband told me that this man had never taken a drink with him and that he could not understand why he took a drink that day. My husband had his dinner and went to sleep.

In the morning he asked whether I had rice. He asked me to send somebody to the boutique and get provisions and rice for the children. I had a little rice and went to sleep. I lay down on the bed when I heard a noise and rushed out to see my husband very sick. The servants told me he had a drink of liquor and complained of a saltish taste in it and went to the verandah and sat on a lounge. I felt his face and asked him 'What happened to you?' He made no reply and froth came out of his mouth. I put up my hands, worshipped my uncle and asked him to bring a doctor. The uncle did nothing of the kind. He approached the sick man and took away his two rings, his wrist watch and bunch of keys.

After the cremation my brothers told me that the people in the house were angry with me and would do me harm and took me and my children away. This was done solely by the first accused who was angry with him for not allowing him to bring his father to one of his lands. He was also angry with him for not giving him the Rs. 2000 which was gifted to my aunt. First accused wanted to start a copra trade with it.

My husband once heard that the first accused was preparing to poison him. Once the first accused sent us jaggery. I wanted to prepare some sweets for the children but my husband told me not to use it as there might be poison in

it. A Headman once told my husband that this accused and two others were preparing poison for him. I myself would not have dreamt of doing such a thing."

Then dramatically pointing an accusing finger at the first accused she concluded her statement saying —

"This man and he alone caused this tragedy".

After the second accused had concluded her lengthy statement the trial Judge before passing sentence, addressing the first accused, said —

"Tell the first accused that he has been convicted by the unanimous verdict of the jury of the offence of abetment of the murder of Don Charles Samaranayaka. On the evidence placed before the Court, I think the verdict arrived at by the jury is quite correct. The evidence showed that you are a man of vast experience and of great ingenuity. You have misapplied the powers given to you. You have not only done it, but you have also got the second accused to do it. She seems to be a poor, helpless woman. You have gained an unwholesome and wicked influence over her. I can only hope that as a result of this trial it will deter others similarly minded from following your example. You have not only deprived this man of his life but it seems to me that you have tried to get an innocent man into trouble, Proctor Abeygunawardene."

He then addressed the second accused and said —

"It seems to me that you are a slave to a great temptation. You were living on very unhappy terms with your husband. Your husband was misconducting himself with mistresses and it is at this time that the influence of the first accused began to work. The verdict of the jury and the rider are eminently correct. Your husband could not have been poisoned without your knowledge."

"Now it only remains for me to pass the sentence which the law provides. The recommendation for mercy will be forwarded to His Excellency."

Justice Jayewardene then put on the black cap and passed sentence of death on each of the prisoners. When the sentence of death was passed on the second accused she broke down and sobbed hysterically.

After the case was concluded there was a commotion in Court when the relations of the prisoners commenced to hurl abuse at the police. In fairness to the police officers investigating the crime particularly Sergeant Suwanchi Appu, Inspector Vandendriesen and A. S. P. Eliyatamby there was no evidence that they had used any improper methods in the course of the investigation. In spite of considerable obstruction by interested parties they were able to piece together the items of circumstantial evidence against the two prisoners. Reference has already been made to the attempts on the part of interested persons to prevent Parana-vitharne making a statement to Vandendriesen on the evening of the

tragedy. It also transpired in the course of the non-summary inquiry that Proctor Abeygunawardene's clerk had threatened and intimidated Paranavitharne who had to seek the protection of the Court and the police. It was an uphill task that faced the police since they had to depend largely on the evidence of the relations and domestic staff who were at times not very cooperative. Sergeant Suwanchi Appu did a magnificent job in tracing the poison, the jeweller Adonishamy and the chemists from whom the poison was procured although the chemists had altered the poison registers to mislead the police investigation.

Poisoning cases invariably grip the attention of the public in view of the unusual nature of the crime. They are cases difficult to prove, because people who utilise such means to get rid of their victims are crafty and calculating. In most poisoning cases long and careful preparation is necessary and the utmost cunning has to be exercised to obtain the poison either secretly or for some ostensible reason, which on the face of it appears to be innocent. This latter method was adopted by the first accused to obtain the cyanide from Adonishamy. Careful preparation was also necessary to condition the second accused to introduce the poison at the opportune moment. But the long arm of the law was ready to meet the challenge when after a painstaking investigation the accused were apprehended, brought to trial and convicted by the jury of the dastardly crime.

On November 27, 1928 the case of Louisa Matilda Samaranayaka came up for consideration before the Executive Council. The Chief Justice was present on invitation at the meeting. It was the Executive Council of the day which, at that time had to deal with applications for executive clemency and it recommended to the Governor, Sir William Manning that the sentence of death imposed on her be commuted to life imprisonment, a recommendation to which the Governor acceded.

After a sojourn of several years in prison, Hilda who was an exemplary prisoner, was released from jail and went back home to pick up the threads of her broken life. With her four children to care for and her husband's estate to be administered she was kept fully occupied and carried out her duties with quiet efficiency. Except for the first accused who was solely responsible for her unfortunate plight, she bore no ill-will towards any individual who had any hand in her conviction, not even the Judge and jury who found her guilty of the capital offence. Indeed when her daughter subsequently married, one of the attesting witnesses at the marriage ceremony was President J. R. Jayewardene, a distinguished son of the judge who sentenced her to death — a generous gesture on her part. As far as the first

accused was concerned there were no extenuating circumstances to mitigate the diabolical crime he had planned which ultimately led him to the hangman's noose.

With the conviction and sentences of both prisoners on the capital charge, the curtain fell on one of the most celebrated poisoning cases of the century, a case which has earned for it a prominent place among the famous criminal cases of Sri Lanka.

THE MURDER OF THE PUTTALAM WIDOW

The ascertainment of truth being the main object of a jury trial, Counsel who appear on either side of the Bar have a great responsibility to assist the Court in the due administration of justice. But while Counsel for the prosecution has to present his case fairly and dispassionately by marshalling his evidence to prove the case beyond reasonable doubt, the burden on Counsel for the defence lies in a different direction. His responsibility is to protect the interests of his client, who is presumed to be innocent. His object is to look for chinks in the armour of the prosecution case and seek by all legitimate means to demolish that case by clever cross-examination and able advocacy.

It has often been said that in a criminal case there is no room for emotion and sympathy. A Court of law deals with hard facts and Judges often direct juries that they should not be swayed by sympathy which is likely to warp their sense of reason and prejudice their judgement. But sometimes cases do occur where defending Counsel while appealing to the juryman's sense of justice, cleverly present arguments interwoven with passages of sympathy on behalf of his client to present the case of the accused in the most favourable light. There have been cases where clever defending Counsel has portrayed his client as a martyr, a much maligned individual, a person who has constantly been harassed by the police, in his endeavour to gain the sympathy of the jury. Perhaps the most striking disciple of this type of advocacy was that brilliant advocate of the English Bar, Sir Edward Marshall Hall, King's Counsel. Edward Marjoribanks in his account of the life of the great defending lawyer has described several instances where this great champion of the criminal courts had successfully obtained the acquittal of his client by the sheer brilliance of his advocacy.¹

Shades of Marshall Hall appear in some measure in the very able manner in which King's Counsel H. A. P. Sandarasagara procured the acquittal of his client in the case of the murder of the Puttalam widow. Mr. Sandarasagara's task was doubly difficult as the facts in the Puttalam case disclosed one of the most gruesome murders in the annals of crime in Sri Lanka. Whenever a gruesome murder or a shocking crime has

¹—The Life of Sir Edward Marshall Hall K. C. by Edward Marjoribanks (1927) Victor Gollancz Ltd., London.

been committed there is always a natural tendency for persons to be strongly prejudiced against the accused in the dock and even a lay jury may be tempted to strive purposefully to convict a prisoner in such a case regardless of the nature of the evidence. For instance was James Hanratty's conviction in the A 6 murder by the lay jury intended to serve as a facade to satisfy public indignation that someone must pay for the brutal killing of the victim and the sexual assault on his girl friend? As Mr. Blom-Cooper has remarked in his account of the Hanratty case 'there was a distinct aura of guilt surrounding the accused in the dock supposed and presumed to be innocent throughout the trial'.² The prejudicial attitude of the lay jury in such a case does not mean that the prisoner in the dock may not have been responsible for the crime, but the state of the evidence may be such that no reasonable jury could be expected to act upon it to found a conviction on the capital charge. In the Puttalam case Mr. Sandarasagara had to overcome this strong wave of prejudice against his client in view of the gruesome nature of the crime and rely to a great extent on his skill as an advocate to secure a verdict of acquittal.

Gruesome murders are not uncommon in any country and Sri Lanka has had its fair share of gruesome murders. There have been cases of the victim being decapitated and the bodies horribly mutilated, instances of the bodies of victims being blown to bits as a result of bomb explosions, cases where bodies have been disfigured as a result of corrosive burns, cases which can only be described as crimes of unspeakable cruelty. In the list of gruesome murders in Sri Lanka the murder of the Puttalam widow takes a prominent place. The victim, an elderly lady of fifty five had her neck slashed, a stocking stuffed into her mouth, her abdomen ripped open and the internal organs strewn about the floor of the bedroom where her corpse was subsequently discovered.

The deceased in the Puttalam murder case was Mrs. Therese Rosario, the widow of Peter Wilmot de Rosario. Wilmot de Rosario was a member of that small but respected community called the Colombo Chetties. The Colombo Chetty community is said to have its origins in the Vaishya caste of India and members of the community migrated to Sri Lanka during the nineteenth century. They held responsible posts under the British being employed in positions of trust as shroffs in the banks and trusted members in the mercantile sector. Thereafter they made Sri Lanka their home and joined the learned professions - medicine and law, while several others took employment under the government. Many of them have left their mark in the history of this country. The booklet published by Simon Casie Chitty in the late twenties gives some account

2--The A 6 Murder, Regina v Hanratty, The semblance of Truth by Louis Blom-Cooper (1963) Penguin Books.

of the activities of the members of this community in Sri Lanka.³ Small groups of members of this community settled down in the main towns on the west coast of the island — Colombo, Galle, Negombo, Kochchikade, Chilaw and Puttalam. In 1928 the prominent members of the small Colombo Chetty community at Puttalam consisted of the De Costas, Britos, Muthukistas, Rosarios, Muttukumarus and some other families. Wilmot de Rosario held the responsible post of Udayar or Headman of Akarapattu and also functioned as Registrar of Births, Deaths and Marriages. He had one child Annette who was seven years of age at the time of her father's death in 1918. It would appear from the evidence that she blossomed out to be a handsome girl and at the age of sixteen was married to a Sinhala Buddhist called Bakmiwewa, who figured as the third accused in the murder trial.

When Wilmot de Rosario died in 1918 leaving a widow and a young child his affairs were in a chaotic condition. His estate was administered in the District Court of Puttalam and valued at Rs. 12,000 and the Proctor in the testamentary case was Mr. Wilfred Muttukumaru, at one time Crown Proctor of Puttalam and a leading lawyer of the Puttalam Bar. The estate consisted mostly of neglected coconut estates, jungle lands and some bare land in the town. The income from these properties was meagre, irregular and barely sufficient to maintain the widow and the child. There was a further difficulty in obtaining an income from these properties as the life interest in most of them was enjoyed by Wilmot de Rosario's mother who was alive at the time of her son's death. Wilmot de Rosario's widow therefore had a very difficult time and lived in very straitened circumstances. According to Proctor Muttukumaru she owned a coconut property three miles out of town and another land at the third mile post on the Kurunegala road on which there was valuable timber which yielded no income but Proctor Muttukumaru described her as a solitary lady who had lands but no cash. Although she gave the appearance of being a hoarder she was in fact starving most of the time. She was an invalid who was never able to enjoy such nourishing food as brandy and eggs'. A cousin of the deceased, Mrs. Alice Bastianpillai, who sometimes spent a week or two with the widow gave a graphic description of the difficult conditions in which the deceased lived shortly prior to the murder. According to Mrs. Bastianpillai, she lived in a rented house, the eaves of which were only three feet from the ground. One had to stoop to enter the house. She was constantly ill. She had no servants. She did the cooking herself and when she commenced her culinary duties at 8.00 a.m. it was 3.00 p.m. when she completed it. She more often lived on hoppers, buns and tea. When she had no money she drank water and slept and only ate a piece of jaggery. She went to bed on

3—(1927) *The Colombo Chetty Community in Ceylon* by Simon Casie Chitty, Catholic Messenger Press

dark nights at 6.00 p.m. and on moonlight nights at 7.00 p.m. The lamps were only lit for fifteen minutes'.

At the time of Mrs. Rosario's death in 1928 Annette had been married for almost two years. Bakmiwewa paid the monthly rent of Rs. 10 for the house occupied by the deceased. He also sent small sums of money — Re. 1 or Rs. 2 and sometimes Rs. 5 — with which she used to pay her creditors who supplied her the meagre meals. The daughter also used to send her curries and the mother in turn sometimes cooked a meal for the daughter. Mrs. Bastianpillai described the deceased as a miser but it does not appear that such a description was justified because she never appeared to have any cash. Even when her belongings were examined after the murder there were no traces of any hoarding. Indeed about a week before her death she had sold a clock, tea pot and an almirah to meet her expenses. The almirah was sold for the paltry sum of Rs. 20 to a Fiscal's peon called Hendrick Appu.

Annette gave evidence at the trial and also referred to the difficult circumstances in which she and her mother lived after her father's death. Her husband Bakmiwewa was at first a boarder in their house and helped her and her mother and gave them money and got his servants to do their work. Annette had only an year's schooling at St. Anthony's Convent, Puttalam and thereafter continued to stay at home and obtained what little instruction she could get from her grandmother. Whenever she had difficulty with her lessons Bakmiwewa used to help her. When she came of age Bakmiwewa proposed marriage to her and perhaps, quite naturally, to emancipate herself from the miserable conditions in which she was living she accepted him in spite of the difference in religion, Bakmiwewa being a Buddhist and she being the daughter of a staunch Roman Catholic family. With her good looks she was described by Mr. Sandarasagara at the trial, in perhaps extravagant language, as 'a wild flower with an odour' and she must have captivated the heart of young Bakmiwewa who married her in spite of her abject poverty. Bakmiwewa was a government clerk employed at the Kachcheri and in receipt of a comfortable salary and soon after his marriage obtained government quarters which in 1928 provided the most satisfactory accommodation in the provincial town of Puttalam. But the mother did not come to live with the new couple and preferred to live in a rented house undergoing great hardship. According to Annette her husband and she provided the food to the mother from the time of the marriage but when Annette was expecting a baby and unable to cook she sent her mother money and provisions. But the mother, as frequently happens, was of the cantankerous type never satisfied and constantly complaining of ill-treatment by her daughter and son-in-law. She never visited her daughter's house.

According to Mrs. Bastianpillai the relations between the mother and the daughter appeared to be cordial up to the time of the deceased's death but the evidence of Mr. Muttukumaru seemed to suggest that there were differences between the deceased and her son-in-law. These differences centred round the question of religion and the transfer of property. Bakmiwewa was a devout Buddhist and took considerable interest in the Buddhist activities in the town. He was the Secretary of the Young Mens Buddhist Association and did much social work for his religion organising concerts and public meetings. When he proposed marriage to Annette and rescued her from her miserable existence he appears to have promised his mother-in-law that he would not get Annette to change her religion. But this is an undertaking which cannot be lightly given and difficult to implement for the very cogent reason that it is the new couple who have to sort out their religious problems without interference from outsiders. Perhaps Annette and her husband felt that for their future happiness and for the sake of harmony in the marital home it would be better in their own interests and that of their child that the wife should embrace the religion of her husband to which he was deeply attached than to continue an indifferent member of her Church. Annette therefore changed her religion and became a Buddhist, much to the annoyance of her mother and relatives, particularly the latter who carried on a virulent campaign of ostracism and backbiting against her. Shunned by her kith and kin she was left to seek consolation in her domestic life and attend to the needs of her husband and child. According to Annette one of the reasons why her mother refused to live with her was because the priests refused to administer the sacraments to her if she did so. It is hardly conceivable, that even in the conservative outlook of the Church in 1928, this would have been the case and this is probably a falsehood invented by a vindictive mother. According to Proctor Muttukumaru he was consulted in connection with the marriage particularly in regard to the religious differences between the daughter and the prospective son-in-law and he advised the deceased not to interfere in their religious affairs as it was bound to create trouble between the deceased and her daughter.

The other matter which created displeasure between Bakmiwewa and his mother-in-law was over the transfer of property. Here too Bakmiwewa appears to have given an undertaking to the deceased not to ask for any property, but when the daughter and son-in-law were maintaining the deceased and paying the house rent, Bakmiwewa, with some justification, asked her to transfer some bare land in the town and also an acre of land outside. Proctor Muttukumaru advised the transfer since the deceased was being maintained by Bakmiwewa but the deceased denied that this was the case. There was an angry scene in the proctor's office at which the deceased abused Bakmiwewa but according to Mr

Muttukumar, Bakmiwewa did not retaliate and acted with great forbearance. Mr. Muttukumar then suggested that the dispute be referred to Mr. E. J. Samerewickreme K. C. for settlement but Bakmiwewa was not agreeable to the proposal. The arrangement for the transfer of the property fell through and both parties left the proctor's office in a temper, The deceased who had worked herself into a frenzy got a shivering fit and almost fainted in the office.

It was suggested by the Crown that it was the deceased's refusal to transfer any property in January 1928 which provided the motive for Bakmiwewa to plan the murder of his mother-in-law in the subsequent month. If Mrs. Rosario died the entire estate would devolve on Annette.

We now come to the events preceding the murder of the Puttalam widow, which according to the prosecution took place on the night of Wednesday February 15, 1928. On January 31 one Mr. J. N. M. Chelvanayagam had come to Puttalam as relieving station master. The deceased was Chelvanayagam's mother's step sister but Chelvanayagam had never seen nor met his step-aunt. On February 5, Sunday, about 11-30 in the morning he paid a visit to his step-aunt and was shocked at the condition in which she was living — the house was in a filthy condition, there were no servants and his step-aunt was dressed in dirty clothes, looked weak and emaciated and appeared to be living under miserable conditions. Chelvanayagam felt sorry to see her in this condition and suggested to her that she should go to Colombo for a change and spend some time with his mother. Thereafter Chelvanayagam wrote to his mother requesting her to come to Puttalam and accompany the deceased back to Colombo. Chelvanayagam's mother came to Puttalam on February 9 and Chelvanayagam took her to meet the deceased and they remained with her for about an hour. Chelvanayagam's mother gave the deceased Rs. 10 and some clothes. Two days later on Saturday the 11th Mrs. Rosario visited Chelvanayagam and his mother and left after dinner. On the following day the 12th they went and fetched the deceased and accompanied her to Church. Mrs. Bastianpillai too went with them. They were seen in Church by Proctor Muttukumar. After service they called on a relation, Mr. Muttukistna and on the way passed the house of Bakmiwewa. Bakmiwewa was at the entrance to the house but did not recognise or speak to any members of the party. Apparently he was still annoyed with the deceased over the incident that took place at Proctor Muttukumar's office. Chelvanayagam, who was aware of the displeasure between the parties, spoke to Bakmiwewa in the hope of bringing some kind of settlement between the parties and informed Bakmiwewa that he was taking the deceased to Colombo the following day for a change. On Monday, February 13 Chelvanayagam and his mother had breakfast with the deceased but the deceased informed them that she was unable to leave Puttalam as she

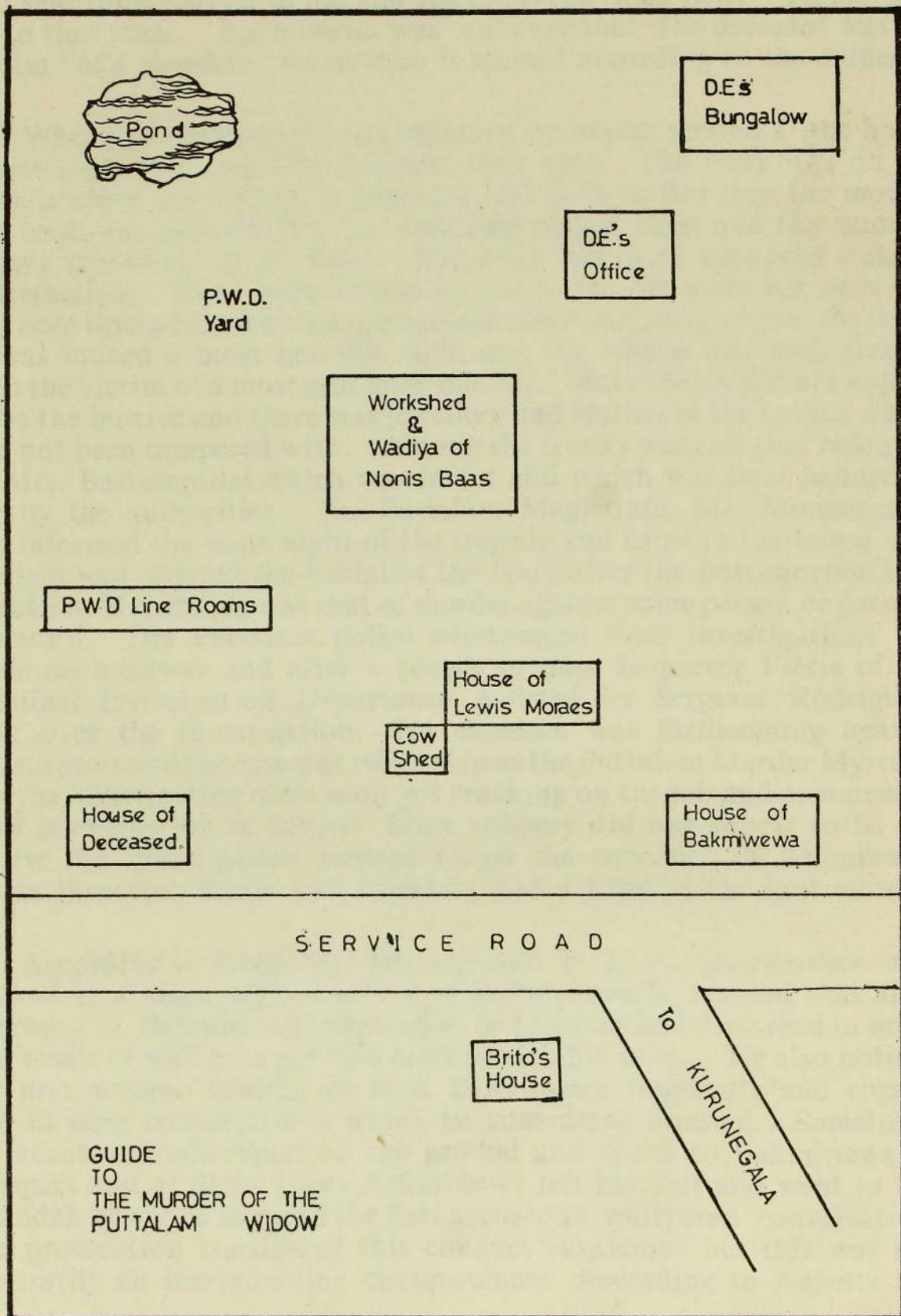
had to see Proctor Muttukumaru in connection with the testamentary case. The following day, Tuesday the 14th Chelvanayagam and his mother visited the deceased to wish her goodbye and found her alone in the house. The deceased informed them that Mrs. Bastianpillai had left in her car that morning for her estate at Madawachi, sixteen miles from Puttalam and would be away for some days. Before leaving Puttalam Chelvanayagam met Bakmiwewa and requested him to take care of the deceased as she was alone in the house. It was the case for the prosecution that being aware of the fact that the deceased was alone in the house from the evening of the 14th, Bakmiwewa had planned the murder of the deceased for the night of Wednesday the 15th.

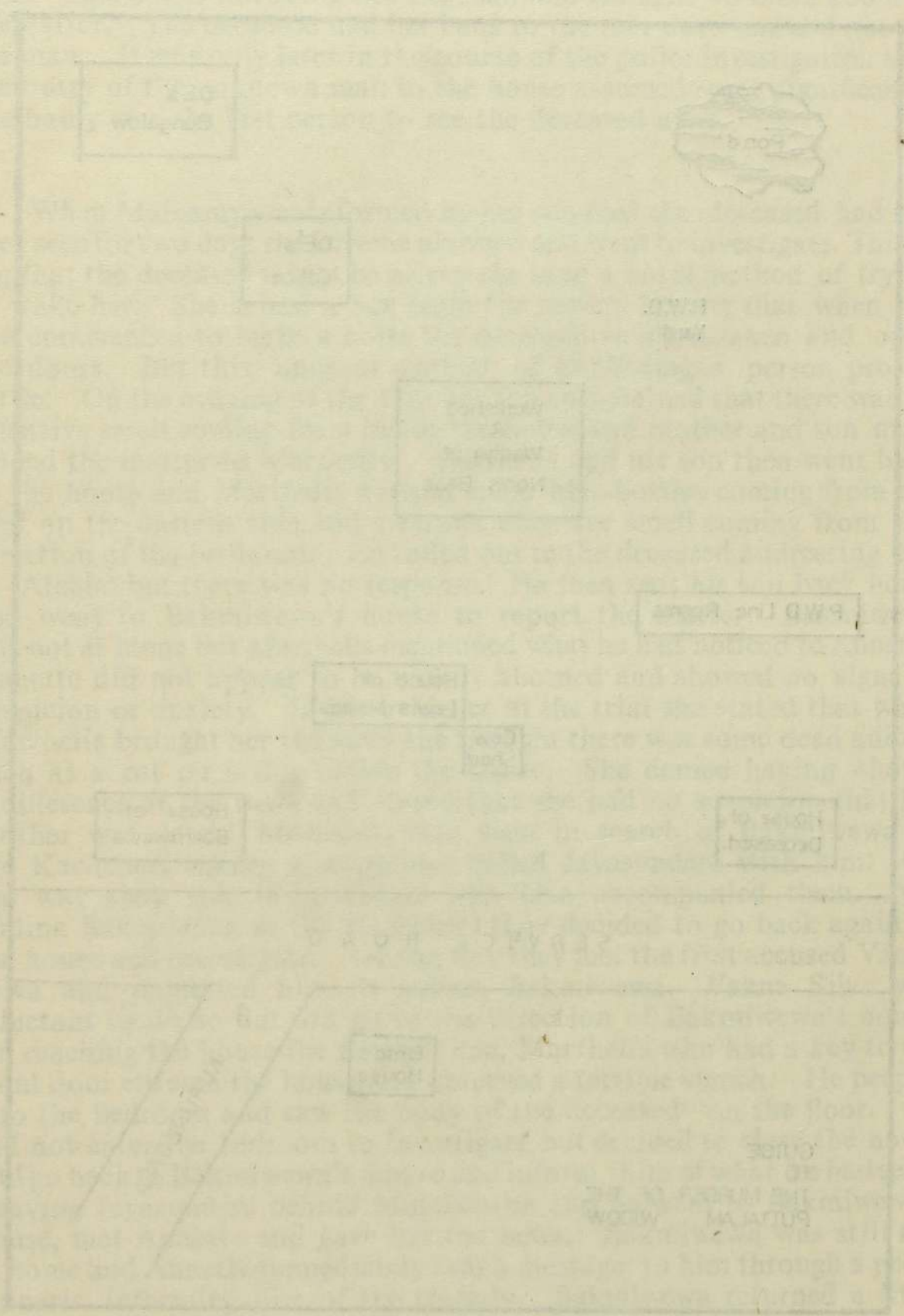
The deceased lived along Service road in the town a little distance away from Bakmiwewa's house. Between the house of the deceased and that of Bakmiwewa lived a washerman called Lewis. The house of the deceased was enclosed with a barbed wire fence and surrounding it was grass land. The house was a small one, described by Counsel as a hovel, and consisted of a hall and bedroom with a front and rear verandah. The kitchen opened onto the rear verandah. The front door could be locked but the rear door was closed by chairs being placed against it supported further by a wooden bar. There was a lean-to adjoining one wall which was occupied at times by a labourer of the Public Works Department called Anthony, who did odd jobs for the deceased. It was this man who conveyed messages and brought food from Annette to the mother. At the rear of the deceased's house was the P.W.D. yard where the lines of the labourers were situated. The P.W.D. yard was a large extent of land and contained the line rooms, the office, the District Engineer's bungalow and a workshed and wadiya which, in February 1928, was occupied by a contractor called Nomis Baas and his labourers. The labourers working under Nomis Baas resided in the wadiya where they slept the night. Among the labourers who worked for Nomis in February 1928 were Vanna Silva and Miguel who were named as the first and second accused respectively in the murder case.

The house occupied by the deceased belonged to Marthelis Silva and it was to him that Bakmiwewa paid the rent. Marthelis, his wife Malhamy and their son Algin Silva, a young boy of fourteen lived some distance away from the house of the deceased. Algin Silva used to come daily in the evening after school to cut grass in the deceased's compound. On the evenings of February 14 and 15 he saw the deceased seated on the front verandah of her house. When he came to the premises on the evening of the 16th he found the house closed and no sound from anywhere. The position was the same on the subsequent evenings. On the evening of the 15th Malhamy had gone to the house of the dece-

ased about 5 p.m. to sell some coconuts. She met the deceased at the front entrance. While she was speaking to the deceased she noticed a man with his head covered with a shawl entering the house from the rear door. She could not recognise the man and thought no more about it thereafter. The deceased had her back to the rear door and did not see the man. It was only later in the course of the police investigation that the entry of the unknown man to the house assumed some significance. Malhamy was the last person to see the deceased alive.

When Malhamy was informed by her son that the deceased had not been seen for two days she became alarmed and went to investigate. Thinking that the deceased might be asleep she used a novel method of trying to wake her. She seized a hen from the garden hoping that when the hen commenced to make a noise the deceased would awaken and open the doors. But this unusual method of awakening a person proved futile. On the evening of the 18th her son complained that there was an offensive smell coming from inside the house and mother and son mentioned the matter to Marthelis. Marthelis and his son then went back to the house and Marthelis noticed some blue-bottles coming from the roof on the eastern side and a strong offensive smell coming from the direction of the bedroom. He called out to the deceased addressing her as 'Atchie' but there was no response. He then sent his son back home and went to Bakmiwewa's house to report the matter. Bakmiwewa was not at home but Marthelis mentioned what he had noticed to Annette. Annette did not appear to be unduly alarmed and showed no signs of suspicion or anxiety. In her evidence at the trial she stated that when Marthelis brought her the news she thought there was some dead animal such as a cat or a dog inside the house. She denied having shown indifference at the news and stated that she had no suspicion that her mother was dead. Marthelis then went in search of Bakmiwewa to the Kachcheri taking a neighbour called Jayasundere with him. On the way they met Muttukistna who also accompanied them. Not finding Bakmiwewa at the Kachcheri they decided to go back again to the house and investigate. On the way they met the first accused Vanna Silva and requested him to inform Bakmiwewa. Vanna Silva was reluctant to do so but did go in the direction of Bakmiwewa's house. On reaching the house the second time, Marthelis who had a key to the front door entered the house and observed a terrible stench. He peeped into the bedroom and saw the body of the deceased on the floor. He did not enter the bedroom to investigate but decided to close the house and go back to Bakmiwewa's house and inform him of what he had seen. Leaving Jayasundere behind Muttukistna and he went to Bakmiwewa's house, met Annette and gave her the news. Bakmiwewa was still not at home and Annette immediately sent a message to him through a peon, Saineris informing him of the tragedy. Bakmiwewa returned a little





later and said 'I did not know she was ill' and Marthelis and Bakmiwewa went to the Puttalam police station and having given information to the police came to the deceased's house with a police party. On the way Bakmiwewa said that it was only some days previously that his wife had sent some curries to her and she appeared to be well. Apparently up to that stage, Bakmiwewa was unaware that the deceased was the victim of a murder. At least so it seemed according to the evidence.

When the police party accompanied by others arrived at the house it was a ghastly spectacle that met their eyes. The body was on the floor covered with sarees, a stocking had been stuffed into the mouth, the neck was severely cut, the abdomen ripped open and the internal organs strewn about the floor. The body was in an advanced state of putrefaction. There were several trunks in the bedroom but only one had been opened and clothes, papers and deeds scattered all over the floor. It was indeed a most horrible sight and the widow had undoubtedly been the victim of a most gruesome murder. But robbery did not appear to be the motive and there was jewellery and clothes in the trunks which had not been tampered with. Among the trunks was one that belonged to Mrs. Bastianpillai which was intact and which was later handed to her by the authorities. The Puttalam Magistrate, Mr. Moonesinghe was informed the same night of the tragedy and came to the house late at night and ordered the burial of the body after the post-mortem examination. His finding was that of murder against some person or persons unknown. The Puttalam police commenced their investigations but made no headway and after a couple of days Inspector Pieris of the Criminal Investigation Department assisted by Sergeant Rodriguez took over the investigation. No evidence was forthcoming against any suspects and the case was referred to as the Puttalam Murder Mystery. But the investigating team soon got cracking on the job and commenced their investigation in earnest. Since robbery did not appear to be the motive the investigation centred round the activities of Bakmiwewa whom Inspector Pieris was confident had a hand in the foul murder.

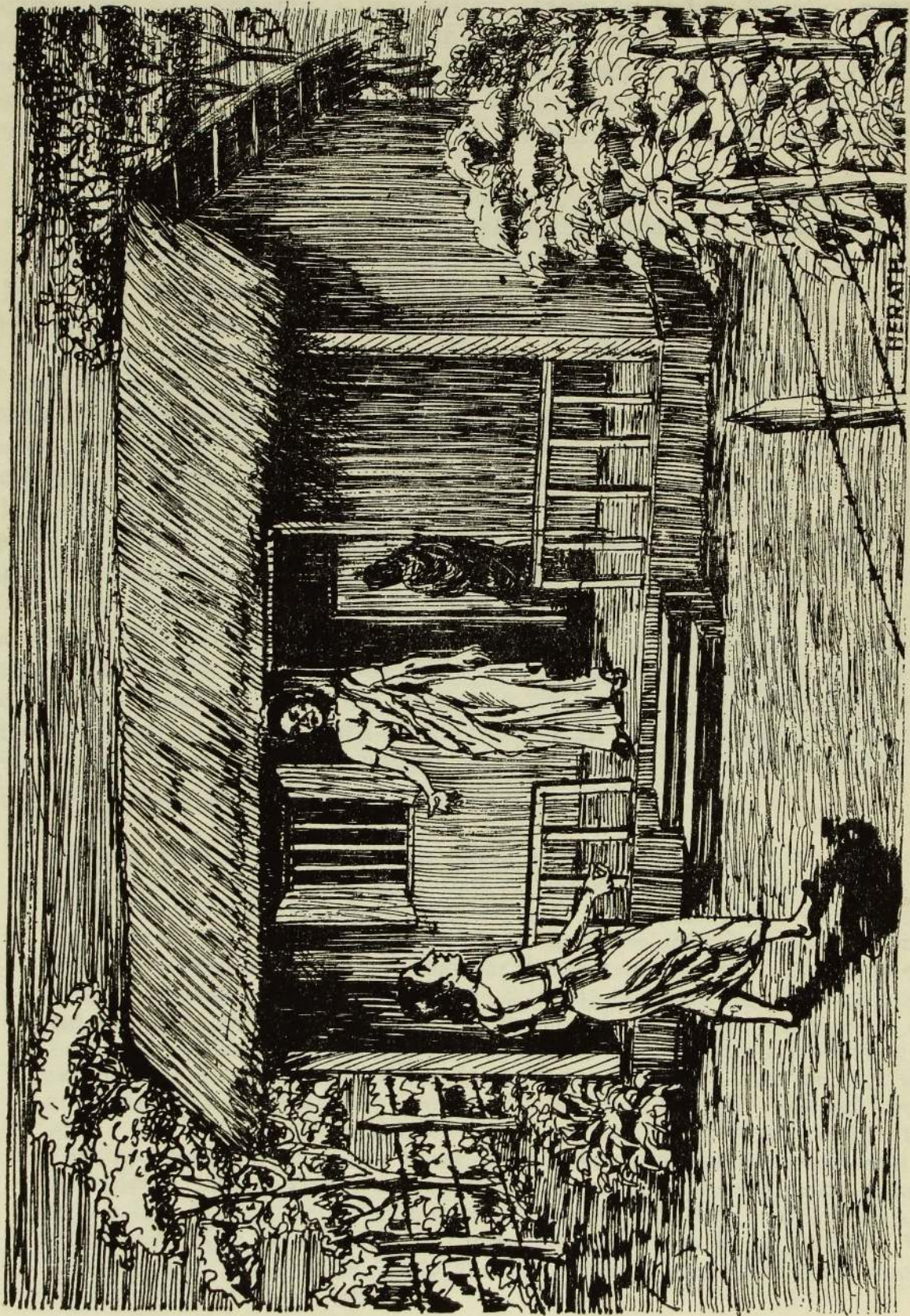
According to Kachcheri Muhandiram W. L. P. Gunawardene who worked at a table adjoining that of Bakmiwewa he noticed that after February 19, Bakmiwewa appeared to be troubled and disturbed in mind as a result of which he got into arrears with his work. He also noticed the first accused coming to meet Bakmiwewa frequently and engage him in long conversations which he considered unusual. Sometimes the accused would squat on the ground and speak to Bakmiwewa in whispers and at other times Bakmiwewa left his seat and went to the verandah where he engaged the first accused in whispered conversation. The prosecution considered this conduct suspicious but this was not necessarily an incriminating circumstance. According to Annette her

husband was on leave on the 7th and 16th of February. On the 16th, the day after the alleged murder, he was ill and friends visited him at home. He must have been naturally perturbed when the murder was discovered and probably felt that the finger of suspicion was likely to fall on him. His anxiety and the slackness in his work may have been the result of this state of mind. It also transpired in evidence that Bakmiwewa was a member of the Galle Gymkhana Club and carried lottery lists with him and people frequently contacted him in regard to the sale of sweep tickets. Therefore the close association between Bakmiwewa and the first accused after the 19th was too slender a thread to lay the foundation for a criminal conspiracy and although the trial judge considered this subsequent conduct on the part of Bakmiwewa a suspicious circumstance it does not necessarily follow that it was an item of incriminating evidence against him. Something much more tangible was revealed in the investigations when Inspector Pieris traced a witness called Sepalage Babbu Singho and recorded his statement.

It transpired in the course of the police investigation that Babbu Singho was employed under Bakmiwewa and was in the habit of sleeping on the rear verandah of Bakmiwewa's house. Some days after the discovery of the body this man disappeared from the town and the police commenced to make inquiries for his whereabouts. The police learnt that Babbu Singho was a native of the Kalutara district and on March 2 Sergeant Herat and Sergeant Rodrigues visited the village of Panapitiya and with the assistance of the Police Headman of Panapitiya, Don Alick Seneviratne, traced Babbu Singho.

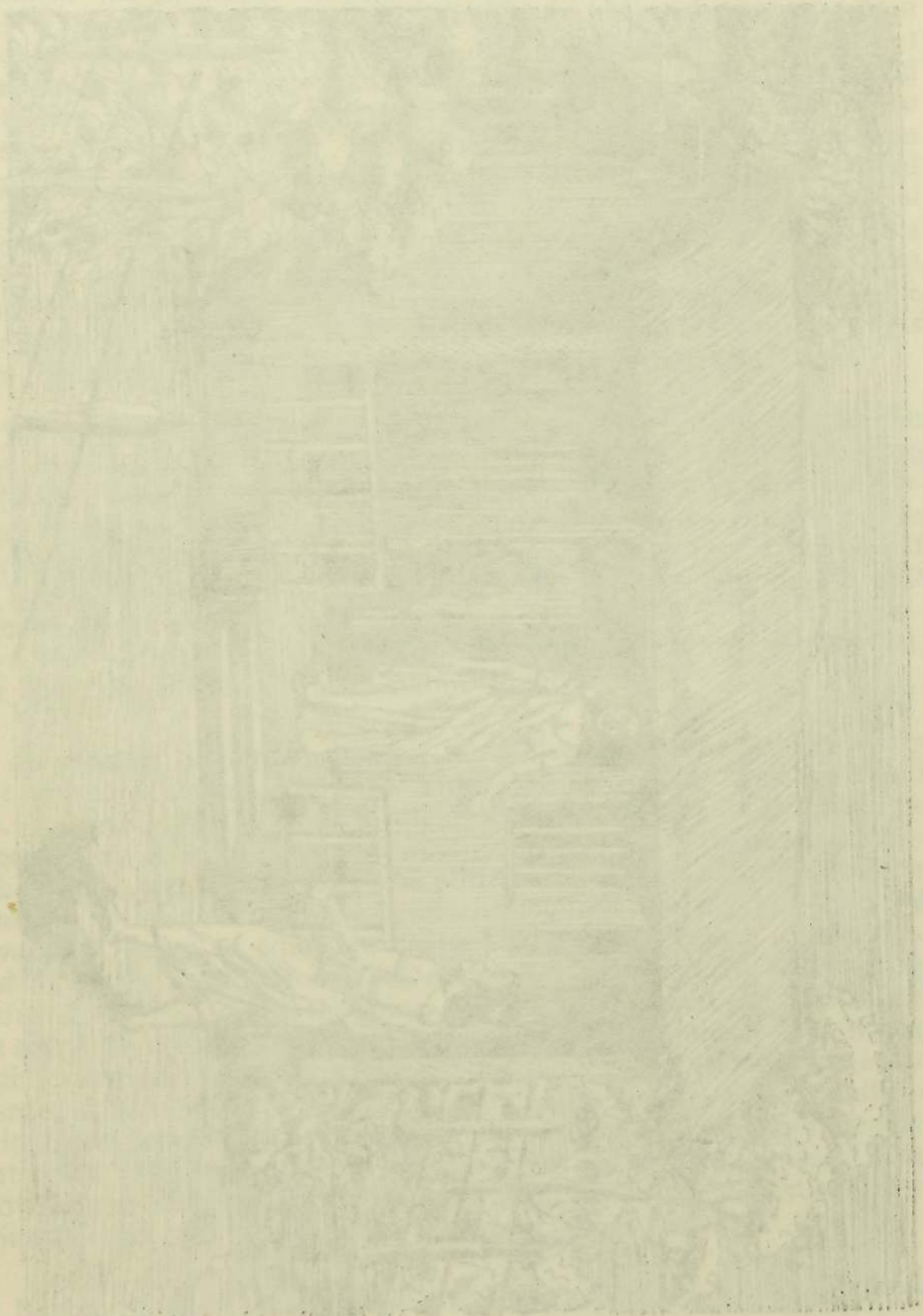
As soon as Babbu Singho saw the police officers he volunteered a most unusual statement and said 'You must have come to see me about Mrs. Rosario's death. I will tell everything I know'. This remark appears strange because it is a rare occurrence for a material witness to show such keenness to assist the police. Usually a material witness shuns the police and he or she has to be coaxed, cajoled and persuaded by various means to come out with important evidence. Witnesses, especially in Sri Lanka are not so cooperative and fight shy of testifying in court knowing too well that their story will be probed and scrutinised by a searching cross-examination at the instance of Counsel. But Babbu Singho was more than willing to assist the police. His statement was not recorded at Panapitiya but he was brought to the Kalutara South railway station from where he was taken to the Criminal Investigation Department office at Colombo where his statement was fully recorded. The following morning he was taken before the Colombo Magistrate, Mr. Aelian Pereira, who recorded his statement at his bungalow.

Babbu Singho's association with Bakmiwewa commenced three



A man covering his head entered by the rear door

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years previously. In 1925 Reverend Saranankara Mahanayake Thera, Principal of the Dharma Vijayan College in the Kalutara district had come to Puttalam to preside at a Buddhist public meeting. Babbu Singho accompanied him on the trip. Before the monk left Puttalam, Bakmiwewa, who appears to have taken a fancy to Babbu Singho, presented him with a coat and sarong and asked the priest to send him back to Puttalam for employment. A week later Babbu Singho returned to Puttalam and was employed under Bakmiwewa and continued in his employment until 1928. He also did some cooly work for Nomis Baas.

Babbu Singho had a graphic story to relate. According to him on the evening of February 15 after taking treatment from the Puttalam hospital for some illness he had come to Bakmiwewa's house about 5 p.m. and was reclining on his mat on the rear verandah. He only had some cunjee that night before he retired. The doors of the house were closed about 9-30 p.m. About 1-30 in the morning of the 16th he was awakened by the barking of dogs and his master from inside the house called out to him and said 'Sepala, Sepala at whom are the dogs barking?' Babbu Singho then saw two persons approaching the house flashing a torch. Before he could reply to Bakmiwewa Vanna Silva and Miguel, whom he had known before, entered the verandah and Silva said 'It is I and Miguel Appu'. The first accused, Vanna Silva had a torch and the second accused Miguel was carrying a gun. Bakmiwewa then opened the rear door and let them in and thereafter closed the door while Babbu Singho continued to lie on the mat. Babbu Singho slept quite close to the door and heard the conversation inside the house. The first accused said 'Sir the job you wanted done was finished today'. Bakmiwewa then asked 'How did you do it?' and the first accused then gave an account of the transaction. His account of what the first accused then said was as follows —

"We told Anthony to get into the house before Atchie closed the door and remain there. We told Anthony that we would come after the doors were closed and tap at the rear door and to open it. About midnight we went and tapped at the door and it was opened. Nothing was done before the tapping. Then we entered the house. Atchie was sleeping on the bed. The lamp was burning close by. I asked Miguel to hold the deceased by the hands and legs and press her down. I caught her by the hair and asked Anthony to cut the neck. Atchie raised a shriek in suppressed tones. I put a stocking as a gag into her mouth and pulled her down to the ground. After the neck was cut by Anthony the deceased's stomach was cut and she died. Then we forced open a trunk which contained clothes and covered the corpse with it. The deeds and papers were strewn about. Then we closed the door and went to the Kiriwewa tank and washed off all the blood stains. Then we came through the jungle. At the time we were in the house we took two sealed bottles of arrack and drank from it and what was left was drunk in the jungle. We threw the empty bottles in the jungle and came along a jungle path to the house. We told Anthony to go home."

Bakmiwewa then inquired 'Will that Tamil fellow (referring to Anthony) come out with this?' The first accused then replied 'We have been spending about Rs. 200 on him and he will not tell this to anyone even if he was killed. If he told anyone about it he would get caught'. Bakmiwewa then said 'You also better not tell anything to anybody'. Miguel said nothing at the time. Silva said he must go home and come to work. Miguel then said he had to go to Anamaduwa. After that they got out and went away. Bakmiwewa then closed the door and Babbu Singho continued to sleep on the verandah.

Babbu Singho stated that he listened to the story closely and then realised that a murder had been committed. He was however too frightened to mention this to anybody as he was a stranger to the town. He continued to remain in Puttalam until the body was discovered but did not go to see the corpse nor attend the funeral. He remained at Puttalam for about a week and then left with Nomis for Nikaweratiya and Kurunegala and finally returned to his village at Kalutara. Early in March the Headman of Panapitiya came to see him with a police sergeant and then he realised that the police had come to interview him in connection with the murder and volunteered to give all information within his knowledge to the police.

If Babbu Singho's evidence of the conversation was true there was an admission that the first and second accused with the assistance of Anthony were responsible for the death of the deceased which was carried out at the instance of Bakmiwewa. The second accused's silence while the first accused was relating the details of the crime would be sufficient to establish his complicity as well.

After Babbu Singho's statement was recorded the police questioned Lewis. According to Lewis he had seen the first and second accused together on several occasions and knew that they were employed under Nomis. On the night of February 15 he had seen them together about midnight. Silva had a torch and Miguel was carrying a gun. He was positive about the date because that night there was a party at the house of Mr. Clarence Brito, planter who lived opposite his house. Mr. Brito corroborated Lewis and stated that on the night of February 15 he was celebrating his success in a pending litigation and entertaining some of his friends until late at night. According to Lewis he was ironing some clothes at night and close upon midnight he went out of the house to give some straw to his cattle when he saw the flash of a torch and two persons approaching him whom he identified as the first and second accused. They were coming from the direction of Kiriwewa and proceeded in the direction of the Kurunegala road and Bakmiwewa's house. When Lewis met them they told him that they had gone out hunting which was

not an uncommon feature among the residents of the town. Lewis did not connect the accused with any crime and did not even have any suspicion about their movements even after the discovery of the body. It was only later in May after the arrest of the accused that he mentioned the matter to Mr. Brito who took him to the police station and had his statement recorded.

Since the first and second accused were labourers employed under Nomis Baas, the police questioned some of the workmen employed under him and traced a labourer from Kandana called Sebastian Pieris who was able to give some relevant evidence about the movements of the two accused on February 15. On the previous day Sebastian had left Kandana and come to Madurankuli about nine miles south of Puttalam and then walked the rest of the distance to Puttalam town to meet Charles Kangany and obtain employment under him. When he arrived at Puttalam he met the first accused whom he had known previously and the first accused found employment for him under Nomis as a labourer to work on the extensions to the District Engineer's bungalow.

About 8 a.m. on the 15th Sebastian went to the house of the first accused to fetch some cadjans and met the second accused who was also known to him previously. The first accused was not at home. About noon the second accused came to the work site and inquired for the first accused and Sebastian told him that the first accused had come to the work site earlier and had left. The second accused brought a pint of brandy and told Sebastian that he had to meet the first accused on some urgent business and took his gun and left and returned again at 5 p.m. Soon afterwards the first accused came to the site and the two accused fell into close conversation and thereafter parted company, the first accused going back presumably to his house and the second accused going to the wadiya where he slept the night. About 7-30 p.m. Sebastian accompanied the second accused to town to buy some provisions and after dinner the second accused went in the direction of Bakmiwewa's house and returned about 8-30 p.m. and slept in the wadiya. He appeared to be after liquor at the time. Before Sebastian retired for the night at 9-30 p.m. he noticed the bottle of brandy placed near the grinding stone but when he awoke the following morning he found the bottle empty, the brandy having been apparently consumed in the course of the night. He also saw two washed sarongs on the line in the work shed.

Sebastian continued to work under Nomis for one and half months and learnt of the finding of the body on the night of the 18th and on the orders of the first accused and Bakmiwewa guarded the corpse until its burial the following day. The second accused left Puttalam on the 16th. Sebastian suspected that the two accused had something to do

with the murder but was too frightened to mention anything to the police as he was working under them. His statement was recorded by Inspector Pieris on April 4. He was taken to the Resthouse and kept in protective custody for two days before his statement was recorded.

The watcher employed at the P.W.D. Yard, V. K. Pasupathy saw the first and second accused in close conversation about 7-30 p.m. on the 15th. His orders were not to permit any of the workmen to leave the wadiya at night but on the night of the 15th he had been specially detailed to watch the District Engineer's bungalow since the Engineer was not in residence. It was therefore possible for any of the workmen to leave the wadiya at night without his knowledge. The suggestion of the Crown was that having regard to the close association between the two accused on the night of the 15th as deposed to by Sebastian and Pasupathy, the second accused sneaked out of the wadiya at night, met the first accused and then committed the crime.

Clement Silva, the fifteen year old son of the first accused gave some curious evidence at the trial from which the Crown sought to establish some guilty knowledge on the part of the first accused. According to this boy his father was a believer in charms and occult practices. He had tied a coin to a green cloth as a charm to protect him from evil. He had also prepared a charm called the 'Yathura Shastraya' (Charm with a key). A large key was placed on a Bible and tied up cross-wise with a piece of cloth. His father then held the book up lightly with a thread between two fingers and repeated the words "St Anthony if we have done this it must turn in the direction of the person who committed the crime'. He assisted his father in the operation. The operation was performed on several days and on one of the days the book turned in the direction of his father. His father had also noted in his diary under the date February 15 that at 3-15 a lizard fell on him, which was supposed to be a bad omen. When Sergeant Rodriguez searched the house of the first accused some time in March he found the coin wrapped in green cloth and the Bible with the key attached to it.

It was on the basis of the evidence of motive, the material evidence of Babbu Singho supported by the evidence of the dhoby Lewis, the evidence of Sebastian and Pasupathy and the evidence of Muhandiram Gunawardene that the prosecution sought to build up a case of murder against the first and second accused and a charge of abetment against Bakmiwewa. Two months had passed since the murder and there was considerable dissatisfaction among the public that no arrests had been made although there was strong suspicion against Bakmiwewa. On April 17 the police decided to arrest Bakmiwewa on the charge of conspiracy to commit murder on the slender evidence of motive and the evidence of Babbu Singho. The first accused, Silva and the second

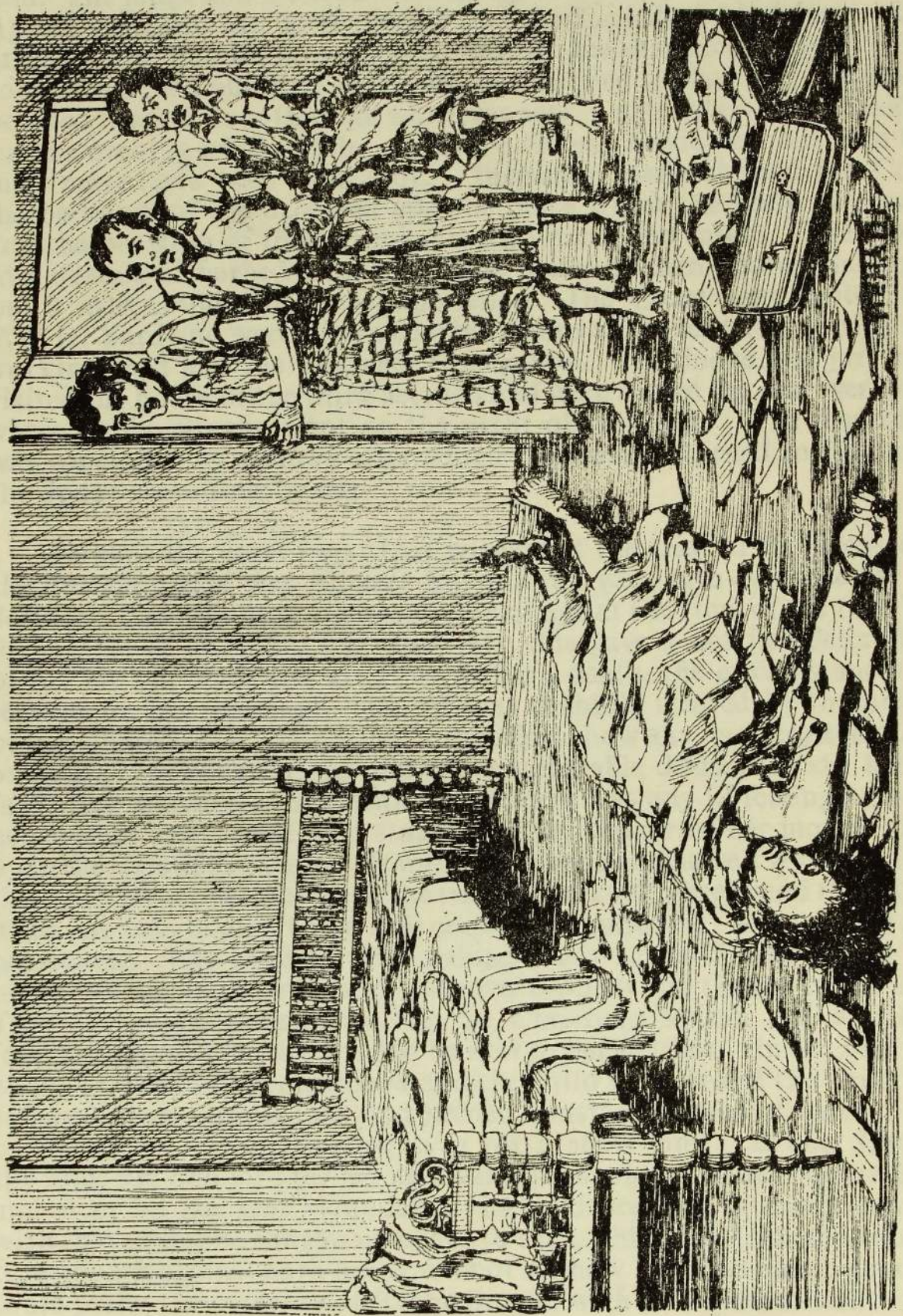
accused Miguel and Anthony were also arrested and produced before the Puttalam Magistrate on April 20 and the non-summary inquiry commenced before Mr. Moonesinghe. The evidence of Proctor Muttukumar, Algin Silva, his mother Malhamy, Marthelis, Chelvanayagam, Brito, Muttikistna and Mrs. Alice Bastianpillai was led by the police. Subsequently on June 1 the Magistrate recorded the evidence of Lewis, Clement Silva and P. C. Haniffa who was the first police officer to visit the scene. The accused were refused bail and a commission was issued to have the evidence of Mr. Aelian Pereira the Colombo Magistrate recorded. On the Attorney General's instructions the vital evidence of Babbu Singho was recorded on August 13. It was obvious that even accepting Babbu Singho's evidence at its face value there was no case against Anthony. Babbu Singho does not speak to his presence on the night of the 15th and Malhamy did not identify him as the man who entered the house by the rear door on the evening of the 15th. His participation in the murder depended on the hearsay evidence of the first accused Silva which was overheard by the witness Babbu Singho. The prosecution therefore moved for the discharge of Anthony and the Magistrate committed only the first, second and third accused to the Supreme Court on charges of conspiracy to commit murder, murder and abetment of murder.

The main plank on which the prosecution rested to establish the case against the three accused was that of Babbu Singho. This man had been adjudged a lunatic in the Kalutara Courts by the Judge Mr. Allan Bevan in 1917 and had been sent to the Asylum. After his discharge from the Asylum he appeared to be normal but sometimes showed signs of mental instability. It transpired in evidence that in 1926 he had sent a petition to the Governor asking for 72 acres of land, a Superintendent, a motor car with a chauffeur and Rs. 70,000 in cash. Even the manner in which he reacted when he was traced by the police as a witness savoured of eccentricity. But the most important evidence of his mental condition was that given by the Colombo Magistrate, Mr. Aelian Pereira. He recorded Babbu Singho's evidence on March 28 at his bungalow and the recording took him two hours, after which he was remanded to police custody to be produced before the Puttalam Magistrate. Mr. Pereira described the statement as a long rambling one and inquired from the police Inspector whether the man was mad. According to Mr. Pereira's impression the man appeared to be a professional story teller with a vivid imagination. Even at the trial he repeated his story parrot-wise with a wealth of detail which is one of the surest hall marks of a tutored story. With his wide experience of crime and criminals Mr. Pereira's assessment of the man was not one that could be lightly brushed aside in spite of the Judge's directions at the trial that he could not be classed as an expert witness. Further proof

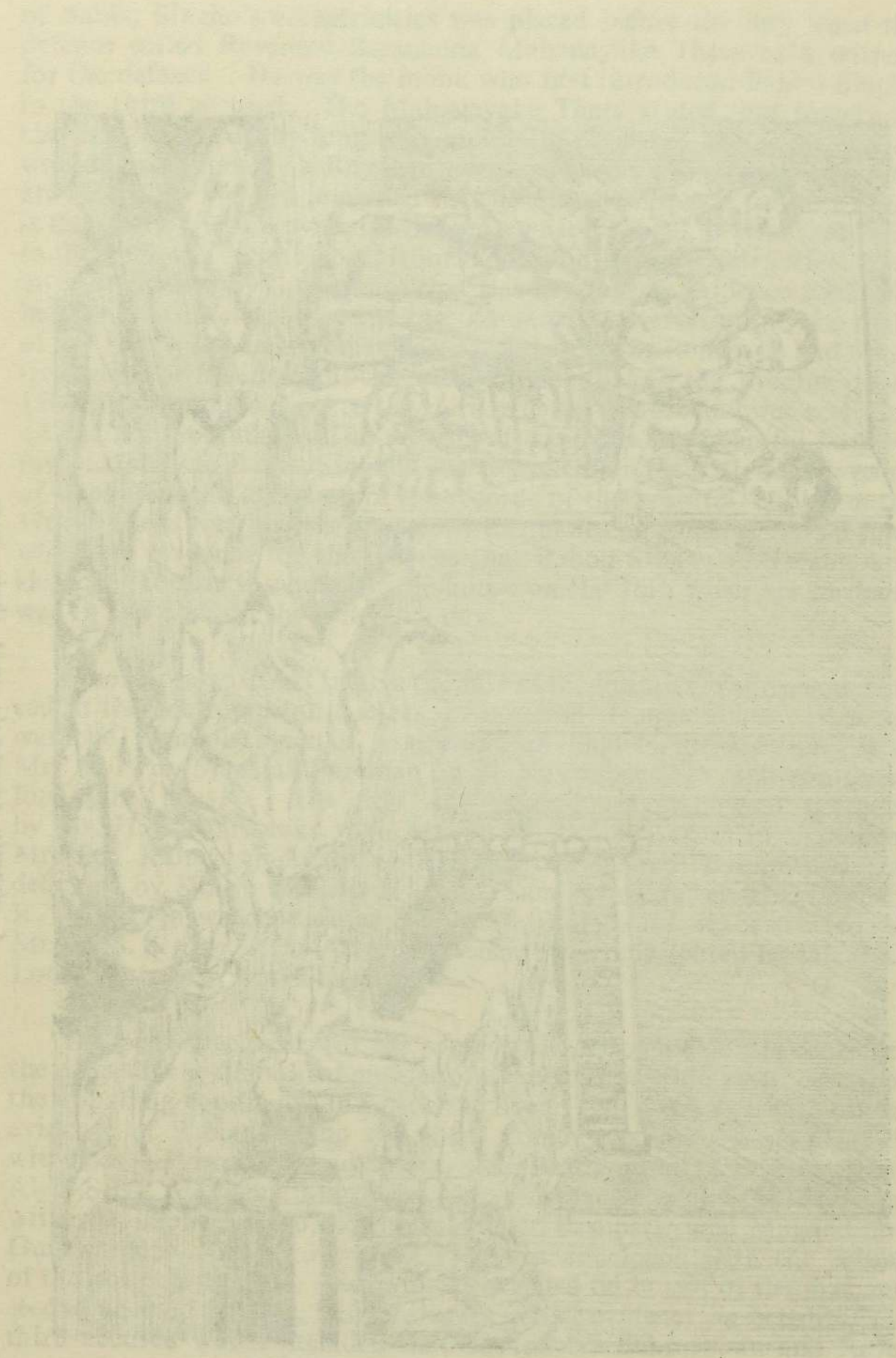
of Babbu Singho's eccentricities was placed before the jury when the defence called Reverend Sarananda Mahanayake Thera as a witness for the defence. He was the monk who first introduced Babbu Singho to the third accused. The Mahanayake Thera stated that sometimes the man believed anything told him. He cherished the hope that he would one day marry a Royal princess. He was a good worker but he always talked big and imagined that he was the King of Ceylon. This is the man on whose evidence the prosecution sought to send three men to the gallows! Quite apart from Babbu Singho's eccentricities it was also established by the defence that Babbu Singho's evidence could not be true that he overheard the incriminatory conversation on the night of the 15th. It will be remembered that according to him he had taken treatment for his illness at the Puttalam hospital on the evening of the 15th after which he came to the third accused's house and was reclining on the rear verandah. The records at the Puttalam hospital however revealed that no Babbu Singho took treatment on the 15th but the name of Babbu Singho appeared in the records of the hospital books on the 17th. There was further the sworn testimony of Annette Bakmiwewa who gave evidence for the defence that Babbu Singho only came and slept on the rear verandah of the house on the 16th when her husband was ill and also on the following day.

The Supreme Court trial in the case of the Puttalam widow commenced at the Metropolitan Assizes before the Honourable E. W. Jayewardene, Commissioner of Assize and an English speaking jury with Mr. A. P. de Maas as Foreman on 21 November 1928 and continued for eight days. The first and second accused were defended by Mr. H. Sri Nissanka with Mr. N. W. J. Gunasekera instructed by Mr. Ben Kanagasunderam while the third accused Bakmiwewa was defended by King's Counsel H. A. P. Sandarasagara assisted by Mr. R. S. S. Gunewardene (later Sir Senarat Gunewardene) instructed by Mr. W. S. Strong. The Attorney General was represented by Mr. F. C. Loos, Acting Crown Counsel.

In opening the case for the prosecution, Crown Counsel described the crime as the diabolical murder of a defenceless widow and described the appalling conditions in which she lived. He dwelt at length on the evidence of Babbu Singho and then commenced to call his array of witnesses — Proctor Muttukumar, Alice Bastianpillai, Chelvanayagam, Algin Silva, Malhamy, Marthelis, Muttukistna, Brito and the important witnesses Babbu Singho, Lewis, Sebastian, Pasupathy and Muhandiram Gunewardene. The prosecution case was concluded with the calling of the police witnesses. No evidence was led on behalf of the first and second accused but Mr. Sandarasagara called evidence on behalf of the third accused which included that of Annette Bakmiwewa and Reve-



A ghastly spectacle met their eyes



rend Sarananda Thera. At the conclusion of the evidence the Court visited the scene. The Judge, jury and the Court staff and the prisoners travelled by train for Puttalam at 5-40 a.m. reaching Puttalam at 10-40 a.m. The judge and his staff were met at the station by the Government Agent, Puttalam Mr. S. H. Wadia and the Kachcheri Mudaliar. After lunch at the Resthouse the Court visited the deceased's house, a low roofed thatched building which was unoccupied at the time. Malhamy pointed the rear door through which she saw a man entering the building on the evening of the 15th. If Babbu Singho's evidence was true this man must have been Anthony. Inspector Pieris showed the Court the bedroom of the deceased and the place where the body was found and the position of three trunks which were found intact. There were five strands of barbed wire round the premises surrounding the house but a man could climb over the fence. The Court next visited the P.W.D. Yard and were shown the line rooms at the rear, the wadiya and working shed and the Engineer's bungalow. The Judge and jury next visited the house of the third accused and were shown the rear verandah where Babbu Singho slept on the night of the 15th. The inspection was concluded by evening after which the Court returned to Colombo, the Judge travelling by car.

Perhaps the most important witness at the trial of the accused in the Puttalam case was Annette Bakmiwewa who gave evidence for the defence. She was only eighteen years of age at the time of the trial and the mother of an infant one year old. She gave a detailed description of her broken home life after her father's death, the circumstances attendant on her marriage, how she was shabbily treated by the priests of her Church after she became a Buddhist, how she was neglected and ostracised by her relations and the innumerable difficulties she had to face after marriage. She denied that there was any ill feeling between her mother and herself and stated that she supported her mother right up to the time of her death. It was her husband and herself who provided the meals to her mother up to the time of her confinement and thereafter when she was unable to do any cooking supplied her with money and provisions. Her husband was making ready to build a house for her on one of the bare lands and had even brought the timber to the site. They exchanged presents during the Christmas season and whenever food was cooked curries used to be sent to her mother. In the first two weeks of February her husband and the child were ill and the child was suffering from convulsions and needed constant medical attention and could not be left unattended even for a short time. Babbu Singho, she said, did odd jobs for her and was also employed under Nomis Baas and slept on her rear verandah. Her evidence was in direct conflict with that of Babbu Singho in regard to the night of the 15th and being a case of oath against oath one could not see how any reasonable jurymen could prefer the evidence of Babbu Singho with all its infirmities to that

of Annette on this vital issue. Annette's evidence on this point found further support in the entries in the hospital register. Surely this evidence must at the least create a reasonable doubt about the truth of Babbu Singho's evidence! She gave a satisfactory explanation why she did not go to her mother's house when she was informed of the offensive smell and why she could not even go later to see her mother's dead body at that time.

The trial judge characterised Babbu Singho's story as being a plausible one but when one examines the story dispassionately it is not a story that would be difficult to be tutored by interested parties. Malhamy's evidence coupled with the fact that Anthony did odd jobs for the widow would not make it difficult to reconstruct the crime since some person must have entered the house before the deceased closed the door. Even the nature of the injuries and the stuffing of a stocking in the mouth enabled an easy reconstruction of the crime. If Babbu Singho was a story teller there was no difficulty in getting him to come out with a prepared story.

In his address to the jury Mr. Sandarasagara strongly commented on the weaknesses in Babbu Singho's evidence. Too often in recent times, said he, did the police seek to bolster up a weak case for the Crown by leading evidence of purported conversations overheard by convenient witnesses in which the accused are alleged to have confessed to the crime. Perhaps this was due to unwarranted zeal on the part of the police whom he alleged procured such evidence in order to satisfy the demands of the public that some persons should be charged when a gruesome crime has been committed.

The calling of Annette Bakmiwewa to the stand as a witness for the defence was clever advocacy on the part of Mr. Sandarasagara. With her youth and her good looks and the tragic tale of her broken home life which she related from the witness box she must have made a lasting impression with the lay jury who would undoubtedly have extended their entire sympathy to the unfortunate girl in her helpless plight. Here was she, a forlorn figure in the dock, her mother the victim of a most gruesome murder, and the only individual who was able to support her, running the risk of being condemned to the hangman's noose which would have meant that she would have been left friendless with an infant child in an unsympathetic world. Quite apart from the favourable impression which she must have created in the witness box she gave the lie direct to the insidious suggestions of the Crown witnesses that she and her husband entered into a foul conspiracy to commit the murder of her mother and furthermore cast grave doubts on the tottering case

for the prosecution in trying to bolster up its case with the shaky and doubtful evidence of its principal witness, Babbu Singho.

Having lost his right of reply by calling evidence on behalf of his client Mr. Sandarasagara commenced his final address to the jury after Crown Counsel's address. Counsel's address in this case is perhaps the most brilliant piece of advocacy that has been heard in the Assize Courts of our country. Counsel had already won the sympathy of the lay jury by calling Annette Bakmiwewa to the stand which was supported by the evidence of the dispenser at the Puttalam hospital which contradicted the important testimony of Babbu Singho that the conversation that he overheard took place on the night of the murder. In his spirited address to the jury Mr. Sandarasagara make capital of the weaknesses and belatedness of the prosecution case. He described the case as one of the most harrowing cases in the criminal annals of the country. An inoffensive old lady probably languishing from disease had been done to death in a manner which can only be described as a ferocious murder — a murder which no other than a madman would commit — cutting and old woman and drawing out her bowels and entrails. But he warned the jury for that reason not to be tempted to accept evidence which otherwise they would not accept. There was, he said, an atmosphere which enveloped and gathered round them which in picturesque language he described as a miasma like a fog in London on a November day. The deceased he said lived in a hovel in which even a labourer would not deign to occupy. She lived in misery and utter cheerlessness for the simple joy and pleasure of hoarding but was entirely dependent on the doles of another widow, her mother-in-law. It was in this back ground that Annette Bakmiwewa underwent all the misery and poverty and for her own comfort decided to throw in her lot with the third accused when she was yet a young girl. Hardly in her teens perhaps beauty and her innocent prattle made Bakmiwewa play the part of a chivalrous knight and rescue her from the abysmal depth of desperation. Said Counsel that thereafter there was a good deal of harsh insinuations by heartless men and women who knew not any act of charity either by day or night. He then criticised the bigoted attitude of the Church. Once a man left the Church, he said, the Church looked upon him as a heretic. This was the intolerant attitude of the Church in 1928. In graphic language, he said, the Catholics of Puttalam, those who created the miasma — Muttukumar, Chelvanayagam, Alice Bastianpillai and Muttikistna — considered Bakmiwewa as a hawk who had pounced upon one of their ewe lambs. He contrasted the intolerant attitude of the Catholics of the town with the work done by Bakmiwewa on behalf of his religion. Could this man be painted as a Jekyll and Hyde? Would he adopt the garb of a demon and plan to butcher his mother-in-law ?

Having conditioned the jury to his way of thinking in regard to the main characters in the tragedy, Mr. Sandarasagara then directed his heavy artillery at the feeble prosecution case. He referred to the audacious lies of the main witness for the prosecution, Babbu Singho, whom he thought was a fit subject for psychological examination. Could any reasonable jury be expected to act upon the evidence of a man who had been adjudged as a lunatic, about whom the Doctor stated there was something wrong with his brain and whom the Magistrate of Colombo described as being mad and a man who appeared to come out with a prepared story? Was it likely that the husband would admit two strange men armed with a gun and torch at night to his wife's bedroom where she was attending to her sick child? Would not the wife scream? Human souls and human minds might control some feelings but not all feelings and here we have a case where a young girl of eighteen was accused of matricide.

At the conclusion of Mr. Sandarasagara's able address, Crown Counsel summed up the case for the Crown and he was followed by Mr. Sri Nissanka for the first and second accused who also made a spirited address on behalf of his clients.

The Judge charged the jury for three and half hours and drew the attention of the jury to the principal items of circumstantial evidence in the case. At one stage when the Judge was dealing with the evidence of Muhandiram Gunawardene, Mr. Sandarasagara interrupted the Judge and submitted that the conduct of the third accused at his place of work did not necessarily indicate guilt, but the Judge sharply rebuked Counsel for the interruption and ordered him to take his seat. After the Judge had concluded his charge, the jury retired for an hour and brought an unanimous verdict of acquittal against all three prisoners. There were wild scenes in Court after the verdict was delivered and Babbu Singho was man-handled by the crowd and hooted and jeered and had to be rescued by the police.

The verdict of the jury in the Puttalam murder case was a correct one. No reasonable jury could be expected to find the prisoners guilty on the available evidence. The absence of robbery as the motive might indicate the whoever was responsible for the murder of the deceased bore ill will towards her and personally desired her death. Having regard to the sadistic nature of the killing it is also likely that the murder was the work of hired assassins. To this extent suspicion was likely to fall on a member of the family as being the directing force behind the murder. Although there may have been a suspicion that Bakmiwewa

had a hand in the killing, suspicion however grave can never be a substitute for proof and the prosecution had failed to establish any case against him beyond reasonable doubt.

A STRANGE CASE OF IDENTIFICATION

The case is one of the most curious and interesting that has come before the court. It is a case of identification, and the facts are as follows:—

The deceased was a man of the name of ... who was ... in the village of ... in the district of ... The deceased was a man of the name of ... who was ... in the village of ... in the district of ...

In October 1909 a murder case of a man named ... was heard before Justice ... and an English-speaking jury from the village of ... was ... with the murder of his ...

The ... of ... was ... and was ... known ... of a ... about ... of ... in ... with their ... to be ... along ... These ... of the ... were ... the ... the ... would ... of the ... about a ... Close to the ... where ... the other ... place for the ...

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A STRANGE CASE OF IDENTIFICATION

In the hinterland extending from the coastal towns of Balapitiya and Ambalangoda in the south of Sri Lanka lies country which is fertile and productive. There are rubber estates, tracts of paddy lands and coconut plantations which extend beyond the Ambalangoda district up to the Baddegama electorate. About twelve miles from Ambalangoda in the Ambalangoda district lies the little village of Batapola, the centre of large rubber estates and small holdings of coconut and paddy cultivation. It is attractive country with luxuriant vegetation intersected by several streams which flow into the large inland lake formed from the upper stretches of the Madampe river which has its outlet into the sea at Ambalangoda.

In October 1949 an unusual case of murder was heard before Justice R. F. Dias and an English-speaking jury from the village of Batapola at the Southern Assizes when a seventy five year old man, Bandaragama Appusingho was charged with the murder of his mistress Mango Nona and acquitted by the jury after a trial which lasted six days.

Appusingho was the caretaker of Boraluwe Estate and was popularly known as Kankanama, which is the usual term applied to the caretaker of a small property. Boraluwe Estate was a small mixed plantation of about twenty acres consisting of a few acres of rubber, a small extent of paddy land and a fair number of coconut trees. Bordering the land on the western side was a small placid stream called the Kapugoda ela. It is a winding stream lined with trees, particularly kaduru trees with their branches laden in season with the succulent kaduru fruit which occasionally fell into the stream with a splash to be carried away in the gentle current. Interspersed along the stream at intervals were the rustic bridges or edandas along which persons could cross the stream. These were constructed in the crudest fashion consisting of the trunk of a large tree spanning the stream, sometimes with a handrail, along which the traveller would have to tread warily to cross the stream. Along the stretch of the Kapugoda ela bordering Boraluwe estate were two such edandas about a hundred yards apart called the Boraluwe and Ambagaha edandas. Close to the edandas were the totupolas or landing places where boats ferrying people or produce from one side of the stream to the other could be beached. The totupola was a favourite bathing place for the villagers. It would be a common sight for the village

damsels clad in their bright bathing cloths to be seen dipping their lissom bodies in the waters close to the totupolas at all hours of the day. Fishing was also a popular pastime, with the more experienced fishermen placing their nets across the ela close to the totupolas and the humble anglers especially young boys, trying their luck with rod and line using the earth worm as the popular bait. Sitting on the banks of the Kapugoda ela on an evening with the setting sun brightening the skies with its various hues, the green paddy fields in the distance and the gently flowing stream in the foreground would perhaps be one of the most attractive and peaceful scenes of rural Sri Lanka. The only feature which marred the serenity of this rural setting was the presence of Mr. Croc., whose numbers though not plentiful could be a source of danger to the unsuspecting bather. To safeguard the bathers there were stakes at short intervals driven into the waters to form a kind of barricade.

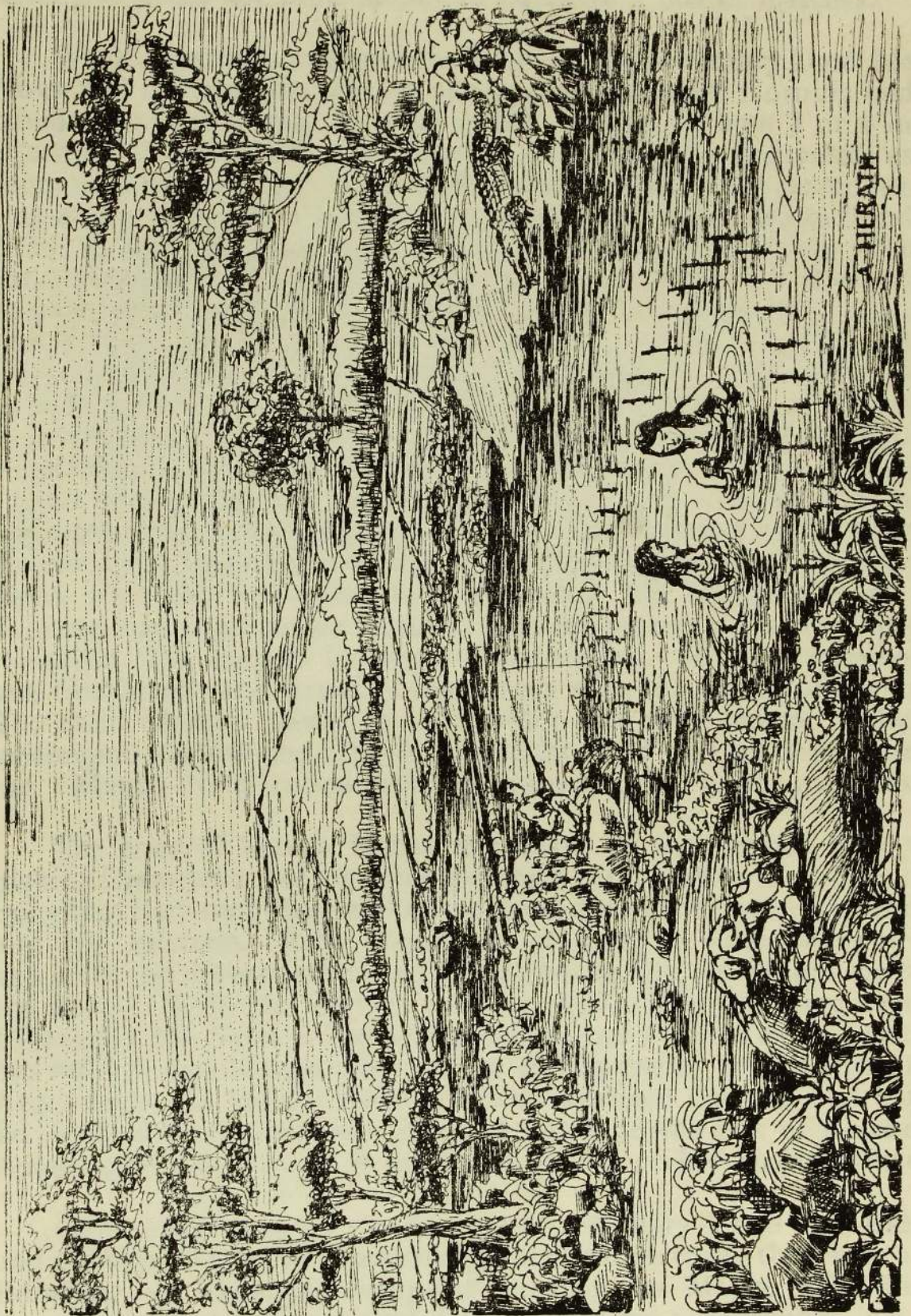
Appusingho lived in a wadiya or cadjan hut on a slight elevation on Boraluwe estate and from the wadiya the land gently sloped to the stream below. Appusingho had been married but his wife had died several years back. He had a son who was about fifty five years of age at the time of the trial. Sometime about 1944 when he came in charge of Boraluwe estate he commenced to keep a young woman called Mango Nona as his mistress and lived with her in the wadiya. In many of our villages morals are quite lax and it was not unusual for a man to keep a woman as his mistress on a practical arrangement whereby he maintained the woman while she performed all the domestic duties including the cooking and the running of the house. It was one Themis who had made the arrangement with Mango Nona's mother, Nonahamy for Appusingho to keep her daughter as his mistress. Nonahamy had four daughters and Mango Nona was the third and was twenty six years of age when she became the mistress of Appusingho. At the time of Mango Nona's death in 1949 she had one child called Mappie Nona about two and half years of age by Appusingho. In 1948 she had again become pregnant and a second child was born in December 1948 but the child died soon afterwards. There were constant quarrels between Appusingho and his mistress regarding the paternity of the second child, Appusingho contending that he was not the father of the child.

The arrangement between Appusingho and Mango Nona to live together as man and wife being solely on the basis of a practical arrangement love and affection had no place in their relationship and there were constant quarrels and disagreement between the parties. In the case of Appusingho these quarrels became more frequent after the pregnancy of Mango Nona in 1948 since he stoutly denied that he was the father of the child. He probably felt, perhaps with some justification, that he was being condemned to share the extra burden of maintaining

and providing for a child when he was not its father. If however his mistress was living a promiscuous life how could he be sure that he was not the father of the child? The problem however solved itself when the child died in 1948 but by that time the relations between Appusingho and his mistress had deteriorated to such an extent that the bickering between the parties had reached a climax. As far as the woman was concerned it was not unlikely that Appusingho's suspicions in regard to his mistress' fidelity were well found. With youth in her favour it was much more likely that she found delectation in the company of a younger mate than the ageing Appusingho. There was evidence led at the trial that Mango Nona was being visited by a younger man called Jayasena who had even suggested at one stage that she should leave Appusingho and live with him. In August 1948 as a result of constant quarrels, Appusingho decided to return Mango Nona to her mother, something akin to the return of an unwanted chattel, on payment of a paltry sum of Rs. 100 but the deal fell through and Mango Nona continued to live with Appusingho until the birth of the second child and thereafter up to the time of her death.

In view of the frequent quarrels between Appusingho and his mistress the neighbours did not pay particular attention to what was happening in the wadiya. Cries and sounds of quarrelling coming from the direction of the wadiya were not taken seriously and considered as a normal state of affairs. Kegal Singho stated in evidence that on two occasions after a quarrel Mango Nona left the house with her child and was away for several days. Baron gave evidence to the same effect. Nonahamy who lived at Batapola testified that her daughter and child came to her house frequently and remained with her for several days after having quarrelled with Appusingho. According to Nonahamy the deceased had complained that she was not given to eat because she had not brought her ration book. Nonahamy stated in evidence that Mango Nona was moody and unhappy. She wanted some security and was insisting on marriage, which Appusingho refused. Even the Headman was unable to bring about a reconciliation between the parties and settle their differences. It was perhaps the abject poverty of the mother and the utter helplessness of the daughter that compelled Mango Nona to continue this miserable existence.

According to the prosecution Mango Nona met with her death on the night of February 1. On January 18 after a quarrel with Appusingho, Mango Nona and her daughter left Boraluwe estate and came to Nonahamy's house. She only returned six days later on the 24th. On January 31 there was a **puran ketuma** or turning of the soil on one of the fields on Boraluwe estate and Appusingho and several labourers — Tilekedasa, Peter, Jinadasa and Charles — were engaged in this operation the entire day, work commencing at 7 in the morning and continuing



Bordering the land was a stream called the Kapugoda Ela

until dusk. The labourers had their midday meal at the wadiya which was cooked by Mango Nona. On the afternoon of that day a neighbour, Baby Nona had visited Mango Nona and spoken to her and the latter had given her some money to purchase a box of matches.

Work in the field continued the following day, February 1 and Mango Nona and her daughter were in the wadiya the entire morning and the labourers had their midday meal at the wadiya. About 3 or 4 in the afternoon a young lad called Jayasena, a labourer on Ketandola estate came to the wadiya and spoke to Mango Nona who was seated on the step of the verandah. According to Jayasena he had come to Boraluwe estate to hunt for porcupines. When Mango Nona spoke to Jayasena she commenced a tirade against Appusingho complaining of ill treatment at his hands. Jayasena stated that he listened to Mango Nona's tale of woe, felt sympathetic and invited her to come and live with him. Meanwhile Appusingho who was working in the field was waiting for the tea to be brought by his mistress, and as a result of the delay sent Tilekedasa to investigate. Tilekedasa returned in a short time and informed Appusingho that Mango Nona was in conversation with a young man. Appusingho immediately left the field taking his katty with him and as he approached the wadiya, Jayasena ran away and watched from a distance. He saw Appusingho come to the spot shouting and inquiring from Mango Nona what she was doing with Jayasena. On being informed that Jayasena had come to the estate to hunt for porcupines he sarcastically remarked 'The chap is looking for porcupines. What porcupines do you find here!' and struck Mango Nona with the handle of the katty. The child Mappie clung to the mother and cried 'Ammo' (Mother) whereupon Appusingho brutally kicked the child who fell down screaming. Mango Nona raised cries but nobody came to her assistance.

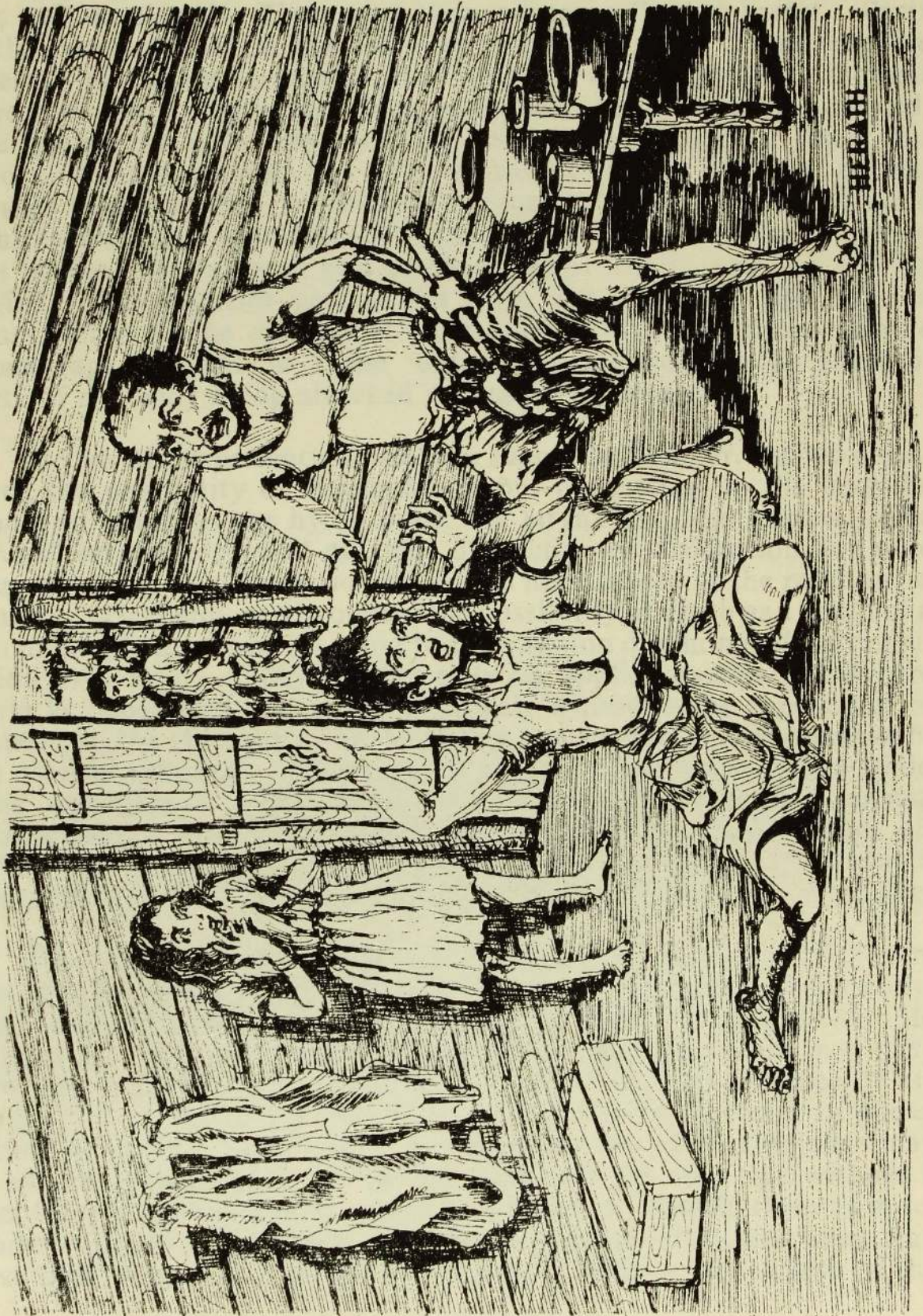
The cries of Mango Nona were heard by two women who were picking firewood at the time but they paid little heed to these cries assuming that they were the result of the usual quarrels between Appusingho and his mistress. Baby Nona, the woman to whom Mango Nona had given the money for the box of matches earlier, stated that she heard the cries of both the woman and the child. The following evening, February 2 she came to Appusingho's wadiya with the box of matches but did not find Mango Nona or the child present. She inquired from Appusingho for Mango Nona and was informed that she had left for her mother's house earlier. She did not hand the box of matches to Appusingho but brought it back and gave it to her husband Peter.

Close upon dusk on the evening of February 1 two men Brampy and Godage Charles went across Boraluwe estate to lay their nets at the Boraluwe and Ambagaha totupolas and they saw Mango Nona dressed in a camboy and a long-sleeved jacket seated on the verandah in a con-

templative mood holding her head between her two hands. This was the last occasion when the deceased was seen alive. Brampy and Charles laid their nets across the stream at the two totupolas and commenced to beat the waters from either side of the stream to drive the fish towards their nets. While they were busy with their work about 7 p.m. they heard a loud cry of distress ('Apoi') from the direction of the wadiya. They did not pay heed to the cry thinking it was the result of a quarrel, but a little later they saw Appusingho paddling a boat and passing the two totupolas and travelling northwards. When they lifted their nets about 10 p.m. they noticed a large tear in one of the nets suggesting that a large object had been forced through the net and they imagined that a crocodile was responsible for the damage. They then gathered their nets and returned home across Boraluwe estate. There were no lights, no sounds and no signs of any movement from the direction of Appusingho's wadiya.

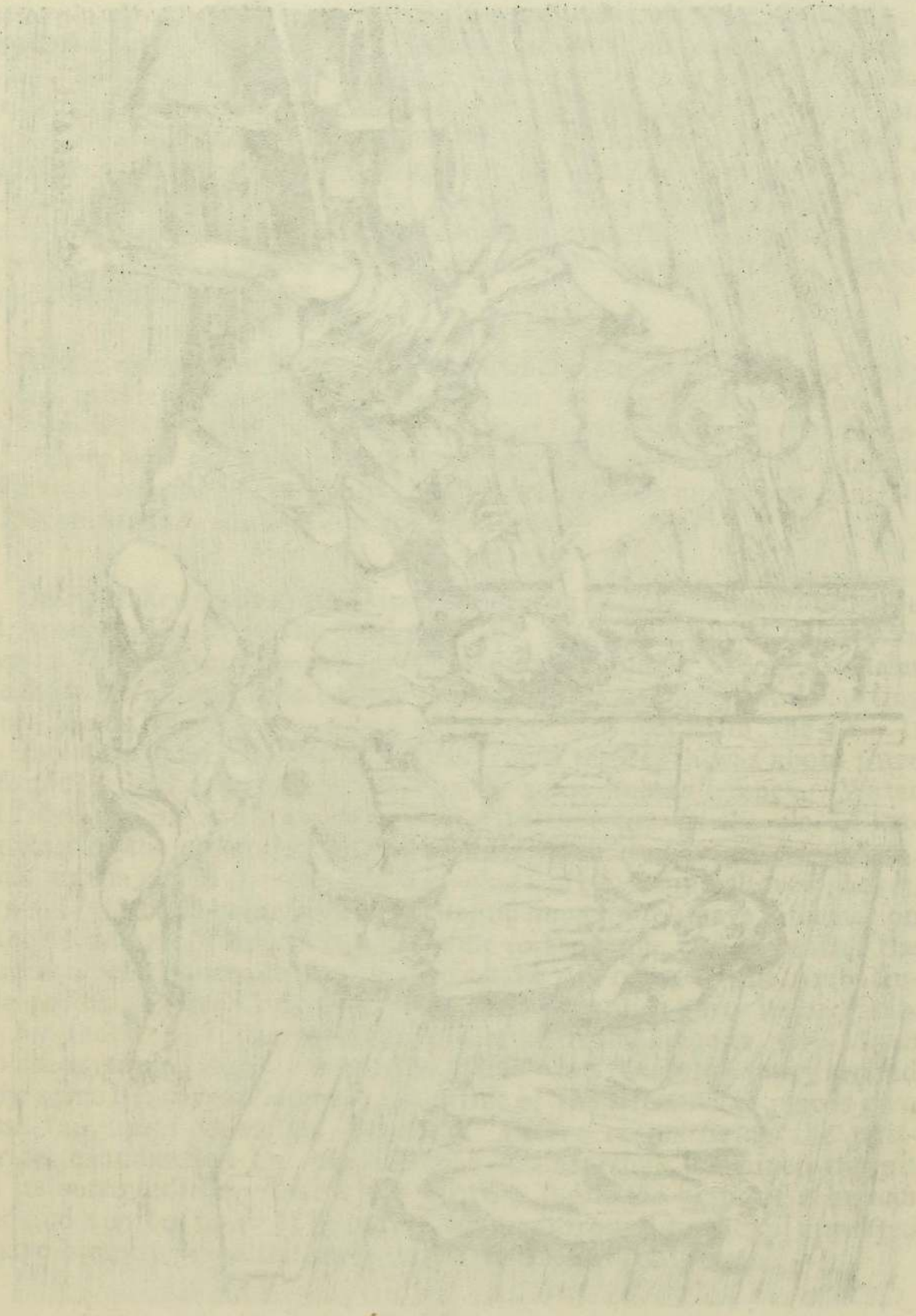
On the morning of February 2 Appusingho had informed everybody that his mistress and her daughter had left for her mother's house. It was Peter who brought the tea and the sugar for the workmen that morning. There was no trace of Mango Nona and her daughter Mappie and it was assumed by everybody that, after one of the numerous quarrels with Appusingho, she had left for Batapola.

On February 4 about 10-30 in the morning two labourers, Podiappu and Aron, had gone to the banks of the Kapugoda ela to cut indura leaves. These leaves are used for the weaving of mats. About a quarter mile from Boraluwe estate beyond the Ambagaha totupola, while cutting indura leaves, they came across a pit about four feet from the ela. It was about two and half feet in diameter and the depth was about three to four feet and appeared to be dug by some human agency. Water had filled the pit and was on a level with the water in the ela. Floating close to the pit in the ela they noticed the body of a young woman. It had a rope round its neck and was clad only in a long-sleeved jacket, the rest of the body being nude. Podiappu immediately gave information to the Headman of Batapola who came to the scene and thereafter the Headman sent information of his gruesome discovery to the Ambalangoda police. Police Constable Marshall and a police party immediately left for the scene. The Medical officer of Ambalangoda, Dr. Misso also accompanied them. When Dr. Misso and the police party arrived at the scene the corpse had been taken out of the stream and placed on a messa, an upraised cadjan structure. Before commencing the post-mortem examination Dr. Misso and P. C. Marshall examined the pit and its surroundings. Inside the pit they found the skin of a human hand and a coil of hair. The indura bushes surrounding the pit appeared to have been trampled but there were no traces of footprints.



He struck her with the handle of the katty

Digitized by Noolaham Foundation.



Nobody was able to identify the body at the scene which was only clad in a dirty long-sleeved jacket. Dr. Misso found that putrefaction was far advanced. The face was cyanosed with bulging eyeballs and a protruding tongue as the result of putrefactive changes. The skin peeled off easily. The teeth were protruding and though small in size the body was well developed. There were three warts on the left breast. Parts of the extremities of the toes and fingers were missing. There were five external injuries on various parts of the body which the doctor thought were ante-mortem since they were gaping with edges raised and everted. The gaping, he said, was probably due to rigor mortis. There was mucous froth round the lips and the mouth. There were no internal injuries corresponding to the five external injuries and none of these injuries could have caused death by themselves. The most serious injury was however on the lower part of the abdomen which had torn off the vagina. The posterior part of the labia was missing. This was an injury, which in the opinion of the doctor, would have caused severe haemorrhage sufficient to cause death and was probably the result of parts of the body being attacked and eaten by crocodiles.

In view of the presence of the rope round the neck Dr. Misso considered the possibility of strangulation but on cutting up the body he found no injury to the hyoid bone, the larynx and the trachea. The cervical vertebrae showed no signs of fracture or dislocation nor were there any signs of a depression round the neck caused as the result of a ligature. He therefore discounted the possibility of death as a result of a hanging. He then gave his mind to the question of a homicidal strangulation as a result of physical force being applied externally but here again he considered such a cause unlikely without some appearance of violence to the skin, injury to the larynx and trachea and dislocation of the cervical vertebrae. Of course the absence of a fracture of the hyoid bone, especially in young people does not necessarily exclude manual strangulation. On internal examination Dr. Misso found silvery air bubbles on the surface of the lung and came to the conclusion that death was probably caused by asphyxia as a result of suffocation or smothering.

The Judicial Medical Officer of Colombo, Dr. G. S. W. de Saram was also a witness in the case and although he did not see the body, expressed the opinion that this would not affect his judgement. He thought the material was insufficient to establish that death may have been due to suffocation or smothering only from the presence of air bubbles on the surface of the lung which can also be the result of putrefactive changes. Dr. de Saram conceded that the external injuries may be ante-mortem or post mortem but expressed the view that without a microscopical examination it would be difficult to classify them as ante-mortem injuries. He would not exclude the possibility that they may have been caused as a result of being torn open by the claws of the

crocodile. He was however positive that the serious injury to the genital organs strongly suggested that it was caused as a result of an attack by a crocodile either before death or soon after death. To sum up Dr. de Saram's evidence he was of the opinion that all the external injuries found on the body could have been caused by crocodiles and consequently on the medical evidence he could not reasonably exclude suicide.

According to a standard text book on Circumstantial Evidence¹—

“In the case of homicide three propositions must be made out in order to establish the *corpus delicti* —

- (1) That death had taken place
- (2) That the deceased has been identified with the person alleged to have been killed; and
- (3) That the death was due to unlawful violence or criminal negligence and it is not till these propositions have been proved that the question is the accused or suspected person, the culprit, arises”

“Corpus delicti meant that a crime has been committed; that a man was dead and that his death was caused by crime”²

There was no difficulty in regard to the first proposition but the second and third propositions had to be established beyond reasonable doubt before the question of Appusingho's culpability arose for consideration.

The Crown relied on certain items of circumstantial evidence to establish that the body of the young woman which was discovered on February 4 was that of the unfortunate Mango Nona. Three days prior to the discovery of the body the deceased was seen alive at the wadiya dressed on a long-sleeved jacket about 6 p.m. and about an hour later Brampy and Charles heard the cry of distress from the direction of the wadiya and later that night when they were returning from their fishing expedition they found the wadiya closed and no signs of movement whatsoever. After the 1st Mango Nona and her daughter disappeared and was not seen or heard of by any of the neighbours nor had she visited her mother at Batapola. It was therefore the submission of the Crown that the body discovered in the elu clad in a long-sleeved jacket was that of Mango Nona.

1. Wills on Circumstantial Evidence (7th Edition) p. 346

2. (1958) Per Lord Goddard in Rv Onufrejczyk

Nonahamy was shown the corpse before the post-mortem examination and she identified it as that of her daughter by the presence of the three warts on the left breast and the long-sleeved jacket which had a piping along the edge. A younger sister of the deceased, Rosalin also identified the jacket. Two other women, Jossie Nona and Sammie Nona identified the body as that of the deceased by the protruding teeth and the konde (the hair of the head). The prosecution sought to support these slender items of circumstantial evidence with much more cogent evidence of identification which was forthcoming from a surprisingly unusual source.

When the police became aware that the corpse had been attacked by crocodiles Mr. Aelian Feranando, Assistant Superintendent of Police, Ambalangoda had a hunch and directed Constable Marshall to shoot the crocodiles that infested the Kapugoda ela in the vicinity of Boraluwe estate and examine the contents of their stomachs. P. C. Marshall shot several reptiles and on February 25 shot a fair-sized crocodile which produced results. In the stomach contents of the crocodile were found a strange assortment of objects —

- 5 bangles
- 1 Earring
- Beads
- A medal
- Coils of hair; and
- A human toe nail

The police took charge of these objects and were able to establish the identification of most of them. The beads, and the medal were identified by Nonahamy as articles that had adorned the neck of Mappie Nona. The five bangles were compared with five bangles found in the house of Dolly Nona, an elder sister of Mango Nona. These bangles had been gifted by Rosalin to Dolly Nona's daughter Jane Nona who had, at the same time gifted five bangles to Mappie Nona. The bangles found in the crocodile's stomach were identified by Rosalin as the bangles she had gifted to Mappie Nona and were identical with the bangles she had gifted to her other niece. The human toe nail was sent to Professor P. K. Chanmugam of the Anatomy Department and identified as the human toe nail of an adult. This was found missing from the corpse. It would therefore be reasonable to infer that the crocodile had attacked the child and an adult. If Mappie Nona was the child the adult toe nail must have belonged to her mother Mango Nona. The hair found on the corpse was compared with the hair discovered in the pit, the hair found in the accused's wadiya and the coil of hair found inside the stomach of the crocodile and Mr. W. R. Chanmugam, the Government Analyst expressed the opinion that they were similar in structure and pigmen-

tation: Coupled with the circumstantial evidence that the mother and child were missing from February 2, the contents found in the stomach of the crocodile were sufficient to establish that both Mango Nona and her daughter had been the victims of external violence. The Crown was therefore able to establish beyond reasonable doubt that the body found floating in the stream on the 4th was that of the unfortunate Mango Nona.

Having established the identity of the corpse as that of the deceased the next question that arose for consideration was whether the deceased was the victim of homicidal violence. Death may result from one of four possible causes — natural causes, accident, suicide or homicide. In the case of Mango Nona there was no difficulty in regard to the elimination of death by natural causes or accident. Mango Nona had no traces of disease and was quite a healthy young woman. There were no indications that her death was due to an accident. But the question of suicide created certain problems, which however in the submission of the prosecution, were not insurmountable.

Before a person can be convicted of the offence of murder the prosecution must establish proof of the *corpus delicti*. The presence of a body is not essential to prove a case of homicide and still less a corpse on which there are injuries. It is a well known principle of criminal law that even without the body the *corpus delicti* can be established on circumstantial evidence. In the case of the Kalattawa murders there was no body and consequently no evidence of injuries on the deceased but the Crown was able to establish on circumstantial evidence that a crime had been committed; that a man was dead and that his death was caused by homicidal violence.³

The question that arose in the 'Crocodile' case was whether the Crown had successfully established that the deceased died as a result of homicidal violence and not as a result of a suicide. The external injuries provided no clue that the deceased was the victim of a homicide. Even if traces of violence were present the putrefying changes on the body, the passage of the body along the stream and the attack on it by reptiles would have removed all means of establishing a case of homicide. It was due to the absence of evidence of injuries of a homicidal nature that the defence was able to suggest suicide as a possible cause of death. The suicide theory received some support from the mental condition of the deceased prior to her death. Nonahamy stated that the deceased was unhappy because the accused refused to marry her and that she was moody by nature but she qualified this evidence later by ascribing her moodiness to the fact that she was being starved. There was also the

3. (1981) Alfred de Zoysa and the Kalattawa Murders, Famous Criminal Cases of Sri Lanka, Vol. 5 by A. C. Alles

evidence of Brampy that on the evening of the 1st the deceased was seated on the verandah in a contemplative mood holding her head between her hands. Finally there was the evidence of Dr. de Saram who expressed the opinion that on the medical evidence he could not exclude suicide. This opinion contradicted the evidence of Dr. Misso in regard to the possible cause of death.

It was however the submission of the Crown that, in spite of the matters referred to in the previous paragraph, it was able successfully to demolish the theory of suicide and consequently the only other alternative was that the deceased was the victim of homicidal violence. The strongest item of circumstantial evidence against the theory of suicide was the finding of the noose round the neck of the deceased. This circumstance in the submission of the Crown not only exploded the suicide theory but also established Appusingho's guilt in the crime. When the police searched the wadiya they found a katty and some pieces of rope, one hanging from a beam and another on the table. These two pieces were compared by Mr. Chanmugam with the noose found round the neck and were found to be similar in texture and could have formed parts of the same rope. Therefore the noose round the neck was probably a portion of the rope found in the wadiya. The vital question that arose for consideration in the case was, who put the noose round the deceased's neck? It had to be either the deceased or Appusingho, who were the two adult members living in the wadiya. If the deceased contemplated suicide why should she have adorned herself with this peculiar necklace before deciding to take her life? It is fantastic to imagine that the noose was put round the neck by the deceased. The conclusion was therefore irresistible that it was Appusingho, who after having cut a portion from the rope in the wadiya put the noose round the neck. The reason is also obvious because it was necessary to tie a noose round the neck in order to take it to its place of concealment. The rope round the neck was not used as a ligature to hang herself. The presence of the noose also strongly supported the case for the prosecution that the deceased was the victim of homicidal violence. It is absurd to think that she would have voluntarily permitted Appusingho to put the noose round her neck. The noose must have been put round the neck either when the deceased was dead or at least when she was in an unconscious state. This would mean that she had been subjected to unlawful violence before the body was put into the stream. That she was so subjected to is supported by the evidence of Brampy who heard the cry of distress from the wadiya about 7 p.m. Even if the fatal injuries to the deceased was the result of an attack by crocodiles the person responsible for putting her body into the water in at least an unconscious state would be guilty of murder on the principle laid down in Loku Nona's case as the intention to kill was patently clear.⁴

4. King v Loku Nona (1901) II New Law Reports; p. 4

Besides the important evidence regarding the presence of the noose there were other circumstances sufficient to demolish the suicide theory. What happened to the child? Did the deceased kill the child and if so for what reason? Did the mother jump into the stream with the noose round her neck to commit suicide and did the child follow the mother? Why should the deceased, even if she contemplated suicide, not have sent the child to Nonahamy's house or to one of her sisters? Is it not much more likely that the child was killed by Appusingho who had displayed bitter hatred to the child and brutally kicked her on the evening of the 1st. Finally in spite of the illtreatment and dejected frame of mind why should the deceased have committed suicide when Jayasena was prepared to provide her with a happy home?

In view of all these circumstances it was the submission of the Crown, that although Dr. de Saram was not able to exclude suicide on the medical evidence, the circumstantial evidence was sufficient to establish to the satisfaction of the jury that the deceased was the victim of homicidal violence and that all three propositions referred to earlier had been established by the Crown beyond reasonable doubt. Once proof of the corpus delicti had been established the final question was whether Appusingho was responsible for the death of the deceased.

On this issue the Crown was able to make out a substantial case against the accused. There was the continuous ill-treatment which the deceased suffered up to the time of her death, culminating in the assault on the evening of the 1st, there was the cry of distress heard by Brampy the same night, the fact that the circumstantial evidence strongly suggested that Appusingho had used external violence on the deceased and probably put the noose round her dead or unconscious body and towed it to its place of concealment, the fact that he was seen paddling his boat about 8 p.m. in the direction of the pit, the breach caused in the net as a result of the sunken body, tearing through the net and the false stories that he circulated from the 2nd that the deceased and her daughter had left for Batapola on the morning of the 2nd. The pit to which the body was taken appeared to have been prepared by some human agency. According to Mr. Aubrey Weinman, the Director of the Zoological Gardens a crocodile never digs a hole vertically. It usually seeks caverns which are horizontal to which it can easily take its prey. There was however no evidence that Appusingho had dug the pit and if so when he did it although there may be strong suspicion that this was done by him sometime on the 1st. All the elements necessary to establish a case of circumstantial evidence were present in the case against Appusingho. There was evidence of motive, opportunity, means and subsequent conduct on which the prosecution could justifiably ask for a verdict against him on the capital charge.

The trial in the 'Crocodile' murder case commenced at the Galle Assizes on 17 October 1949 before Justice R. F. Dias. Mr. A. C. Alles, Crown Counsel appeared for the Crown while Appusingho was defended by Mr. Cecil Goonewardene, Advocate. At the close of the case for the prosecution the presiding Judge, quite justifiably called upon the accused for his defence but Counsel did not call the accused to the stand and led no evidence on behalf of his client and was content to stress the weakness of the Crown case and draw attention to the conflicting medical evidence and the absence of proof of injuries of a homicidal nature. When the Judge decided to call upon the accused for the defence he probably did so on the basis that he was of the opinion that the Crown had established a case for the prisoner to answer and that the theory of suicide was too far-fetched a defence to convince a reasonable jury.

But Justice Dias was an unpredictable judge and immediately afterwards the case took a dramatic turn, when he decided that the prosecution had failed to make out a prima facie case and directed the jury to bring a verdict of acquittal. He appeared to have been so convinced that an injustice had been perpetrated on the accused that he apologised to the accused for the embarrassment and annoyance caused to him as a result of the Attorney General deciding to indict him on the capital charge.

It is respectfully submitted, with due deference to the presiding Judge, that Justice Dias was in error in withdrawing the case prematurely from the jury. Had the case proceeded the full length of the trial, there was a fair chance that the jury as judges of fact would have come to the conclusion that Appusingho was guilty of murder.

The case has been popularly referred to as the 'Crocodile' murder case, but only for the reason that this estuarine reptile played an important part in the identification of the dead body. Although this case cannot claim to be one of the celebrated cases of Sri Lanka, its unusual features, so full of absorbing interest, has perhaps earned for it a place among the annals of the famous criminal cases of our country.

THE DREAM THAT REVEALED A MURDER

Below the gateway to the Jaffna peninsula at Elephant Pass in the Northern Province of Sri Lanka lies a vast extent of inhospitable country which forms the major portion of the Kilinochchi electorate. The main road to Jaffna and the railway line to the north cuts across this stretch of country and on either side of these main trunk routes the land extends both east and west until it reaches the sea in both directions. The country is barren and unproductive and the average cultivator ekes out a precarious existence between the monsoon rains which swamp the low-lying areas at one season and the prolonged drought which affects his cultivation at other times. The chief town which caters to the needs of the inhabitants of this area is Kilinochchi situated along the Jaffna highway and it is to Chavakachcheri in the Jaffna peninsula that persons would have to travel long distances to have their disputes and differences settled in the courts of law. Recently however a Court has been established at Kilinochchi to ease the hardships of the litigant.

North-west of Kilinochchi, about eight miles from the town is situated the little village of Uruthiripuram and in December 1962 this remote hamlet hit the headlines when it became the centre of one of the most remarkable murders that took place in the Northern Province which deserves a place among the famous criminal cases of Sri Lanka. It has been popularly referred to as the Uruthiripuram temple murder case, the victim being the high priest of the Uruthiripuram kovil, Kasilinga Sarma.

Kasilinga Sarma was the eldest son of Kuppaswamy Aiyar, a respected and well-known resident of the island of Delft, which lies off the shores of the Jaffna peninsula. Kuppaswamy Aiyar was a Brahmin by caste and officiated as the temple priest at the Delft centre. His daughter was married to Narayana Sarma and lived on the mainland. Sometime in the year 1947, Kuppaswamy Aiyar's eldest son, Kasilinga Sarma went on a pilgrimage to South India and fell in love with an Indian Brahmin girl called Kohilakambal. Kasilinga Sarma was in his mid forties at the time but Kohilakambal was much younger and in her early twenties. Kasilinga Sarma was apparently captivated by the dusky beauty of the Indian girl with her flashing eyes and curvaceous form and after a whirlwind courtship got married in India and brought his young bride to his native land. Soon after his return from India, Kasilinga Sarma,

who had inherited the priestly qualities of his respected father, decided to join the priesthood and was appointed the temple priest of the Uruthiripuram Pillayar temple and settled down in the village of Uruthiripuram with his young bride. At the time Uruthiripuram was a desolate village amidst dry, barren land but there were prospects of better times ahead when the Government of the day commenced a colonisation scheme and decided to provide irrigation facilities and other amenities to the area in an endeavour to improve the difficult conditions of the peasant farmer.

Kasilinga Sarma and Kohilakambal resided in a house on the temple premises for fifteen years, during which period Kohilakambal gave birth to four children — two boys and two girls. The eldest child was a girl, Rasaledchumy, who was about fourteen years of age at the time of Kasilinga Sarma's death in 1962. Ever since Kohilakambal settled down in this remote village she carried on with her duties as a wife and mother with quiet resignation. She performed the domestic chores without complaint, looked after her children and attended to the needs of her husband in the dutiful manner of the Jaffna housewife. But with the passage of time the conditions in the lonely and desolate premises began to change. Kasilinga Sarma was getting older and not able to satisfy the sexual desires of his much younger partner and commenced to seek solace in drink forgetting his priestly duties. It was a common feature for him to occupy himself in a drinking bout in the evening and retire to his bed sometimes without a meal in a drunken state which would have put the precepts of his religion to shame. In the absence of persons of his own status in the village, his usual companions in these drunken revels were his resident labourers.

Kohilakambal was also beginning to become restive. Combined with the loneliness of the surroundings of the desolate village, boredom had slowly but surely intruded into the lives of the husband and wife. Quarrels became more and more frequent and gradually the relations between the parties began drifting to a breaking point. It was in the year 1962 that the relations between the ageing priest and the buxom beauty with her flashing eyes, now in her mid thirties, began to take a serious turn when human passions, which often get out of control, began to play a vital role in the intimate lives of Kasilinga Sarma and his young wife.

Living in a cadjan hut in the temple premises was a labourer called Velupillai who assisted in the cultivation of the temple lands and worked for Kasilinga Sarma. In 1962 Velupillai was a strong, strapping young man, twenty six years of age. Bronzed by the sun with his muscles rippling under his dark skin, the result of hard labour under an inhospitable climate, Velupillai was the personification of perfect manhood.

The flashing eyes of Kohilakambal began to take stock of the younger man, his naked body clad in the briefest of loin cloths was to her the epitome of all that her husband might have been in his early years, and the embodiment of that virility for which she secretly and fondly hungered. Velupillai had also begun to take note of the dusky beauty of his mistress and watched with interest the frustration and unhappiness that had crept into her young married life. Kohilakambal and the temple labourer were now in that highly magnetic stage which inevitably drew them together, constantly compelled their eyes to meet and instantly entangles their souls in unison.

No one will probably ever know the circumstances which led to the first amorous encounter between Velupillai and Kohilakambal, but that they did meet and make love and carry on an illicit relationship there cannot be the shadow of a doubt. Quite apart from an admission by Kohilakambal herself later to the Chavakachcheri Magistrate, there was ample evidence led at the trial in the murder case to establish the illicit relationship between the lovers. The most material evidence on the point was given by Rasaledchumy, the young daughter of Kasilinga Sarma. Being constantly about the precincts of the house and blessed with wisdom and intelligence for her young years she could not have been unaware of what was taking place under her father's roof. She had seen Velupillai and her mother closeted together in a closed room in the absence of her father and received strict orders from her mother to see that none of the children disturbed her when she was there. It does not require much imagination to know what must have been happening within the four walls of a closed room between two young people of the opposite sexes. She had seen her mother sneak out on moonlight nights and keeping a tryst with her lover near the well; she had seen them travelling together alone to various parts of the neighbourhood of the temple premises in a buggy cart: and she was aware that her mother prepared special delicacies for the temple labourer thereby depriving the children of their natural fondness for sweetmeats.

The growing intimacy between the wife of the temple priest and the labourer on the farm was noticed by others who endeavoured to put a stop to the deteriorating position in Kasilinga Sarma's married life. A trader Sivasambu, who hailed from Pungudutivu, resided close to the temple premises and used to bathe at the temple well. Kasilinga Sarma sought his assistance together with another elder called Kandiah Pasupathy to try and persuade Kohilakambal to put an end to the illicit relationship, settle Velupillai's accounts and send him away from the village. Kohilakambal however adopted a defiant attitude to the proposal and informed the emissaries that before Velupillai's accounts could be settled, there were financial transactions between her husband and herself that needed adjustment. She clarified her position when she

stated that her jewellery had been pawned to Nalliah and from the money received a tractor had been purchased for the use of the farm. She claimed that before Velupillai's accounts were settled and he was sent away it was the duty of persons who were responsible for pawning her jewellery to redeem it and return it to her. She would then leave with Velupillai. In spite, however, of these protests and objections by Kohilakambal, Kasilinga Sarma did settle Velupillai's accounts and send him away from Uruthiripuram. But Kohilakambal was not going to accept this step without a protest and decided to go on strike. From the day Velupillai left the village, she refused to cook for her husband or her children for three days and remained brooding and moody like a sulky child. The children were starving and in desperation Kasilinga Sarma had no option but to bring back Velupillai.

Another attempt was made by interested parties to put an end to the intimacy by arranging a marriage for Velupillai and sometime in April 1962 Velupillai got married to Ponammah, daughter of Kandiah Sinnetamby of Vavunukulam according to the traditional Hindu rites. When Velupillai returned to Uruthiripuram after his temporary absence, he came back with his new bride but within three months she returned to her father's village finding life with her newly wedded husband impossible. Ponammah had a distressing tale to relate. One night she was awakened by a whispered conversation. Feigning sleep she watched Kohilakambal awakening her husband and calling him out. Velupillai discarded his kambili and followed the shadowy farm of Kohilakambal outside. Ponammah followed and watched her husband and Kohilakambal making love near the well by the light of a silvery moon. The following morning she took her husband to task and confronted him with his infidelity. The only outcome of the confrontation was that Ponammah was abused and severely assaulted and when she fell down Velupillai brutally kicked her, indicating his contempt and hatred for her. Apparently the passionate fires that had been stoked in Velupillai's breast by the elder woman could not be quelled even by the presence of his newly-wed bride. Ponammah had therefore no alternative but to return to her parents. Some time later Kasilinga Sarma in a final desperate attempt to put a halt to the scandalous relationship between his wife and his labourer and realising that the absence of the wife would only make the paramour's task easier, decided to take Velupillai to Ponammah's village and after repeated assurances given to Panammah's parents that he would live peaceably with his wife, Velupillai brought back Ponnammah to Uruthiripuram. Ponammah decided to give her marriage another chance but within a short time she realised that it was a hopeless task and doomed to failure as she had no weapons to combat the growing hold which Kohilakambal had on her husband. With sadness tearing at her heart strings she witnessed the secret meetings between the lovers and she had no alternative but to make a clean break

and return a second time heart-broken to her father's home leaving the lovers to carry on with their passionate intrigue undisturbed.

After Ponammah's departure the intimacy continued with renewed vigour and nothing could stop the passionate relations between the labourer and the priest's wife. In a little remote village peopled by a handful of inhabitants, rumour spreads like wild fire and the association between the two lovers became an open scandal. Even in far-off Delft rumblings of the intrigue between his son's wife and the temple labourer had reached the ears of Kuppaswamy Aiyar. The old man in the evening of his life lived in a remote corner of the island of Delft. He was closely attached to the members of his family and like all grandparents enjoyed the company of his grand-children when they visited him with their parents. But in 1962 he noticed a marked change in his daughter-in-law. Although she went about her daily tasks with energetic fervour he had a premonition that everything was not well with his favourite son and daughter-in-law. She did not seem to have a care in the world and appeared to be trying to hide some secret emotion and he was worried about the future happiness of his son. Kuppaswamy Aiyar nursed his sorrow in silence hoping that his premonitions were unwarranted and only the outcome of some idle fancy.

Meanwhile events were building up to a climax with the heightening passions of Velupillai who could not brook sharing the amours of his lover with another, even if that other was the woman's husband. After one of the evening drinking bouts with Kasilinga Sarma and prolonged passionate embraces in Kohilakambal's arms he made the bold suggestion to his lover that they should elope. To this proposal however Kohilakambal gave a definite 'No'. To her, in spite of her quarrels with her husband and the estrangement between her husband and herself, she could not, as a good Brahmin, desert her husband and leave him so long as he continued to be her husband. Velupillai became desperate and then proposed the sinister and diabolical plan that they should murder Kasilinga Sarma. To this wicked plan, Kohilakambal infatuated with her lover and regardless of the consequences, hesitatingly agreed.

The die was now cast and the stage set for the drama that was going to be enacted which ultimately spelt disaster to all the actors. All the elements that provide the background for the classical Greek tragedy were now present—an ageing and ineffective husband, a young attractive wife whose sexual appetite craved for satisfaction and a virile, heavily muscled young man who was on the scene and able to satisfy the most demanding cravings of the sexually starved wife.

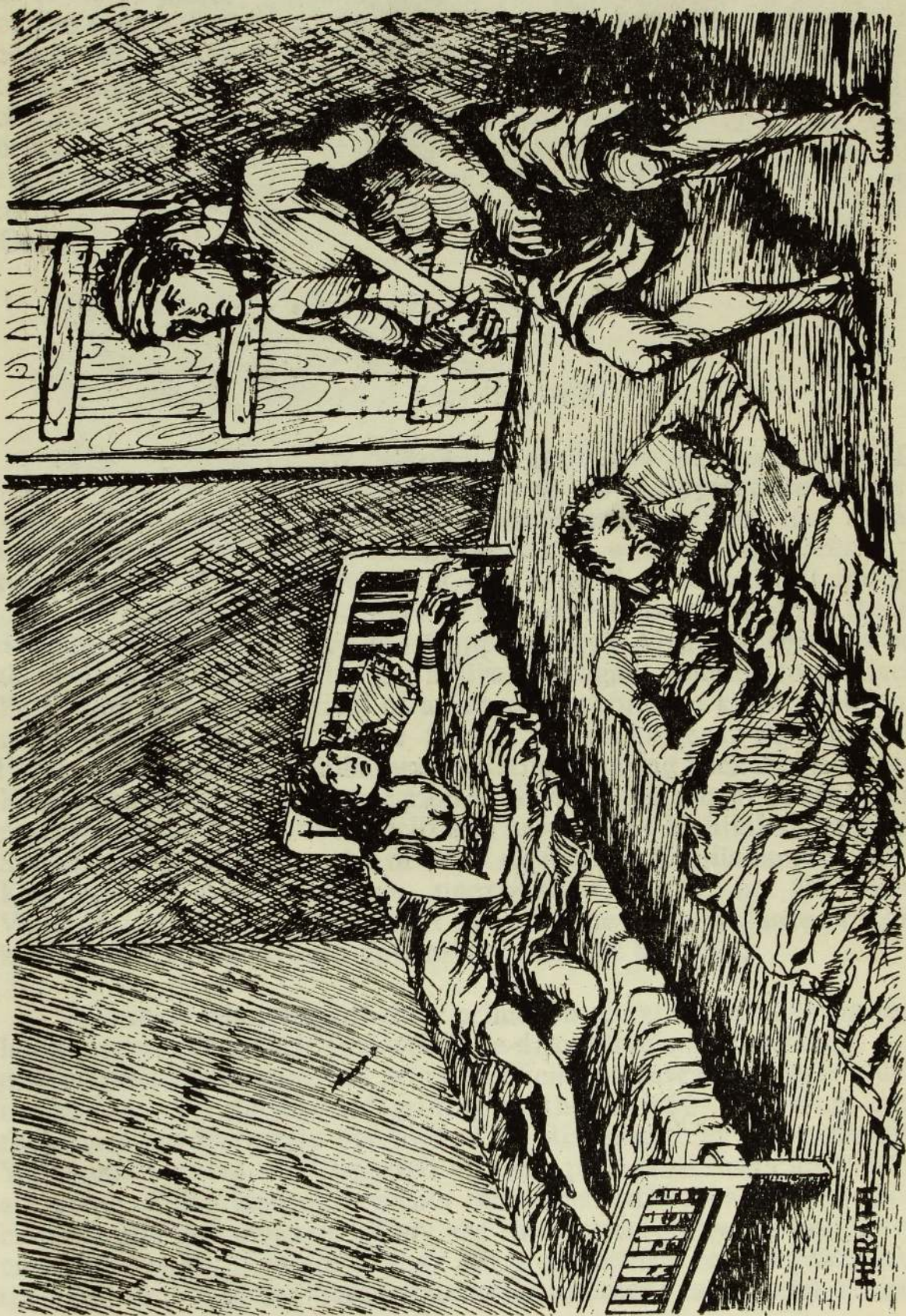
In December 1962 Kuppaswamy Aiyar was very ill and bed-ridden with high blood pressure and wanted his children and grand-children around him before anything untoward should happen to him. His daughter and son-in-law Narayana Sarma had visited the old man at Delft and Kuppaswamy Aiyar instructed Narayana Sarma to send a post-card to Kasilinga Sarma requesting him to come with his wife and elder children to see him. Narayana Sarma's post-card dated December 13 was received at Uruthiripuram on the 14th. When Kasilinga Sarma received the message at Uruthiripuram he showed it to Kohilakambal and after the evening poojah informed her and his daughter Rasaledchumy to get ready to leave for Delft the following morning. He was however destined never to leave his home nor see his sick father at Delft. When the post-card was received, Kohilakambal became very upset. If she left for Delft with her husband she did not know how long she would be away from the village and having regard to Kuppaswamy's Aiyar's condition it might necessitate a prolonged stay from Uruthiripuram away from the arms of her lover. There was a hurried consultation among the conspirators that same evening and it was decided that Kasilinga Sarma should be killed that night.

Velupillai's cadjan hut on the temple premises was quite close to Kasilinga Sarma's house and three months earlier another labourer, Pasupathy shared the quarters with him. That evening after the poojahs at the temple were concluded, Velupillai invited Kasilinga Sarma for a drinking session at his hut. The session commenced about dusk and continued for several hours during which time Velupillai and Pasupathy generously plied their victim with liquor. By about 9 p.m. Kasilinga Sarma was well drunk and retired to his room without even taking a meal. After he had left, Rasaledchumy saw Velupillai, Pasupathy and Kohilakambal in earnest conversation in the hut, where no doubt the three conspirators were making the final preparations for the foul murder of Kasilinga Sarma that night.

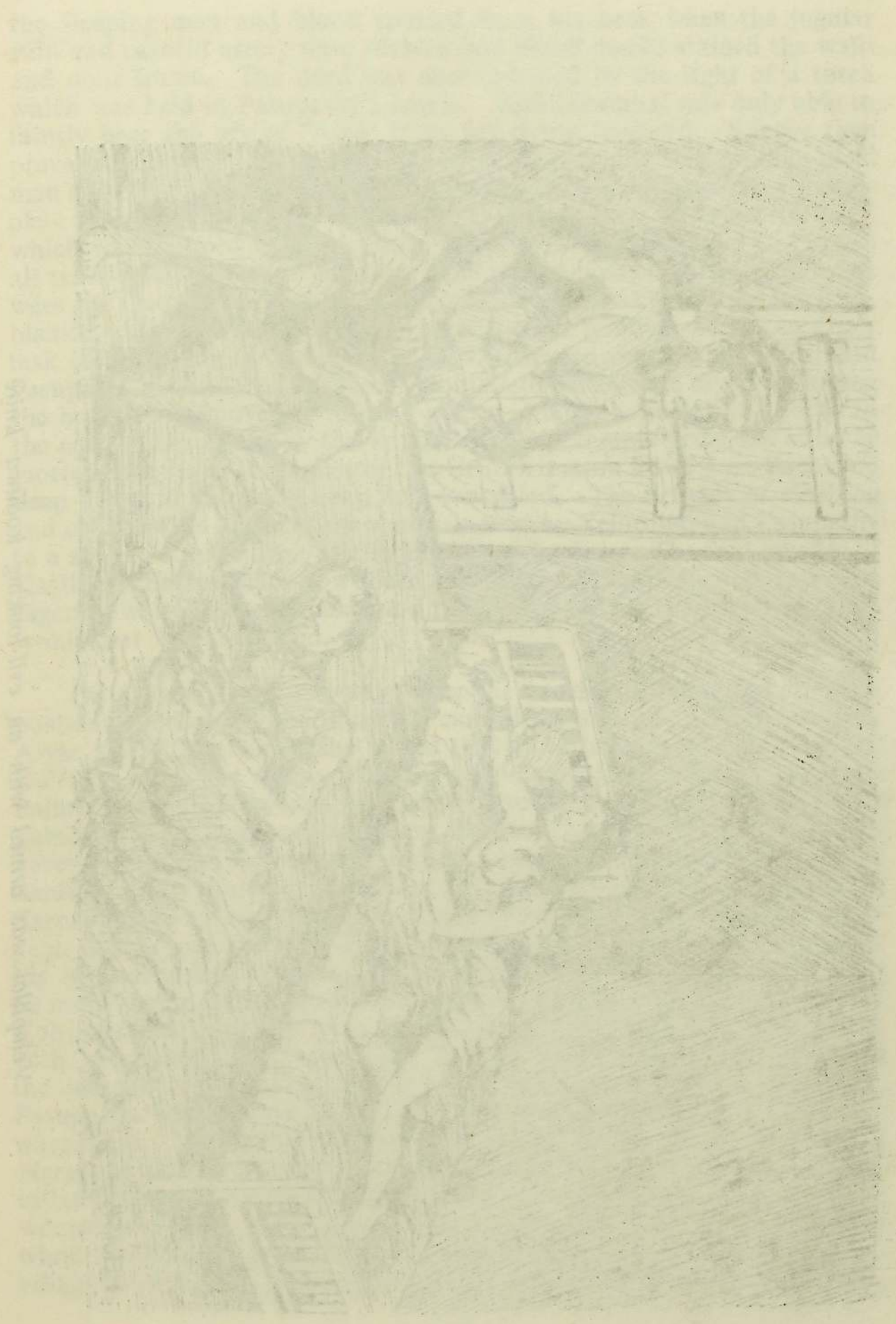
Kohilakambal and Kasilinga Sarma slept in a room which could be fastened from the inside. Rasaledchumy and the other children occupied the adjoining room which also could be closed from inside. They retired for the night and the children became aware of what had happened to their father only the following morning. After being well primed with liquor Kasilinga fell into a deep slumber. He always preferred to sleep on the floor instead of on the bed and spread his kambili on the cemented floor while Kohilakambal slept by his side. Close upon midnight Velupillai and Pasupathy approached Kasilinga Sarma's room and Velupillai gently knocked on the door which was then opened by Kohilakambal. Velupillai was bare-bodied and armed with an evil-looking koduwa knife. He then held Kohilakambal by the hand and pushed her out of the room. With one slashing blow he decapitated

the sleeping man and blood spurted from his neck when the jugular vein and carotid artery were severed and blood marks stained the walls and door frame. The deed was accomplished by the light of a torch which was held in Pasupathy's hands. Kohilakambal was only able to faintly hear the cry of 'Aiyo' from her dying husband. Silence then prevailed and blood gushed forth from the wounds soaking the dead man's verty and kambili. The conspirators then commenced to complete their mission by washing the room and sloshing water on the floor, which was mopped up by several gunny bags in an attempt to remove all traces of the crime. Finally the mortal remains of Kasilinga Sarma were put into a gunny sack while the blood-stained clothes, gunny bags, blanket and mops were collected into another gunny sack. The grisly task of disposing of the dead body was carried out by Velupillai and Pasupathy with the assistance of Kohilakambal and the sack containing the body was removed to a heap of cow dung about seventy yards to the east of the house by the boundary of the temple premises and the mortal remains of the priest of the Uruthiripuram kovil were deposited deep down in the dung heap and concealed. The articles of clothing and other traces of the crime were removed by Velupillai and Pasupathy to a spot two miles away in the jungle and buried. The foul murder of Kasilinga Sarma had now been accomplished and the conspirators eagerly awaited developments and fondly hoped that their wicked crime would not be discovered.

On December 16, two days after the murder, Kohilakambal sent a post-card addressd to her husband care of the address of Kuppaswamy Aiyar at Delft in which she stated that since her husband had left for Delft on the night of the 14th she would remain at Sonnanpattu near Pallai as requested by him until she received a reply from him. Kohilakambal was of course well aware at the time that Kasilinga Sarma could never send a message to her as he was beyond the ken of receiving or sending any postal communications to any living soul. As Kasilinga Sarma had not arrived at Delft, Kuppaswamy Aiyar sent word to Narayana Sarma and instructed him to go to Uruthiripuram and look for his brother-in-law. When Narayana Sarma arrived at Uruthiripuram he met Pasupathy, Kohilakambal and her children and was informed by Kohilakambal that Kasilinga Sarma had left for Delft at 10 p.m. on the 14th promising to contact her later. This information supported the contents of the post-card she had despatched to Delft on the 16th. Pasupathy was unable to enlighten Narayana Sarma of his master's whereabouts and Velupillai was not in the village to be questioned. Narayana Sarma then commenced an intensive search for his brother-in-law and was assisted in the search by several villagers including some women who combed the surrounding jungle in search of the missing man whom he thought may have been waylaid and killed on his way from his village to Delft. He even proceeded to distant villages including Tunnalai,



Velupillai was armed with an evil-looking koduwa knife



twenty five miles away in search of his brother-in-law but all his efforts proved fruitless. According to Narayana Sarma, Kohilakambal and Pasupathy did not participate in the search and showed indifference as to its outcome. The evidence at the trial indicated that at the time of the search Velupillai had left the village and that before he left he comforted Kohilakambal and asked her to keep up her spirits and not to be frightened of anything. Apparently with the passage of time the conspirators were beginning to get more confident that their wicked crime would never be revealed. Kohilakambal's grim silence about the whereabouts of her husband provoked Crown Counsel in the course of his final address to the jury to parody the popular lines of Baroness Orczy

“They sought him here, they sought him there
The Sarmas sought him everywhere
Is he in heaven or is he in hell?
T'is only Kohilakambal who can tell”

It was only after Kohilakambal's post-card was received at Delft that Kuppaswamy Aiyar became aware of the disappearance of his son and a second sense warned him that some serious mishap had occurred to his beloved son. While Narayana Sarma was making search for the missing man at Uruthiripuram, Kohilakambal came to Delft and again persisted that Kasilinga Sarma had left for Delft on the night of the 14th. She appeared to be restive and Kuppaswamy's Aiyar's suspicions began to be aroused. Soon after her arrival she again wanted to go back to Pallai and await the arrival of a husband whom she knew could never meet because she was aware that he was no longer in the land of the living. Since Kohilakambal was insisting in going back to the mainland Kuppaswamy Aiyar sent a telegram to Narayana Sarma at Uruthiripuram requesting him to return to Delft and accompany Kohilakambal back to Sonnanpattu. About eight or nine days after Kohilakambal had left Kuppaswamy Aiyar had an unexpected visitor in the form of Velupillai who informed him that he had come at the instance of Kohilakambal but could give no apparent reason for his visit.

Criminals who commit their crimes in secret are always on tenter-hooks fearing that their sins would be discovered sooner or later. Will one of their companions in crime weaken and reveal the grisly details in the face of a determined grilling by the police? Will some matter they have inadvertently overlooked be discovered by the authorities? Will some nervousness displayed on their part raise suspicion? These are some of the mental torments that constantly assail criminals who commit planned murders. They are thereby naturally nervous, restive, and show signs of anxiety, they see a policeman behind every pillar; they feel that they are being constantly watched; and every action of

theirs involuntarily display signs of mental torture. The avenging angel is always on the alert watching and waiting for them to make the fatal slip. It was these fears that prompted Kohilakambal to visit her father-in-law to see which way the wind was blowing. Her paramour followed on her heels to make a purposeless trip to Delft. This strange and unusual conduct on the part of the conspirators aroused the suspicions of Kuppaswamy Aiyar who was already aware of the intrigue between the temple labourer and his daughter-in-law. When therefore Velupillai came to Delft in the wake of his lover, Kuppaswamy Aiyar became suspicious and sent word to the Village Headman of Delft, Kanapathipillai, that he suspected that Kasilinga Sarma's labourers, Velupillai and Pasupathy must have been responsible for the disappearance of his son and the Headman arrested Velupillai and handed him over to the Kayts police. Meanwhile Narayana Sarma after a vain search for his missing brother-in-law made a complaint to the Kilinochchi police that Kasilinga Sarma could not be found and Inspector Ponnuthurai of the Kilinochchi police commenced his investigations.

Kuppaswamy Aiyar was sick at heart and deeply distressed in mind fearing that something ominous had happened to his favourite son, and decided to leave his sick bed and proceed to Uruthiripuram in search of Kasilinga Sarma. Not only had he suspicions about Velupillai and Pasupathy, but he even had doubts about his daughter-in-law, who had up to that time adopted a care-free attitude without taking any positive steps to look for her missing husband. He was now convinced that his son was the victim of a sinister plot at the hands of Kohilakambal and the two labourers.

Kuppaswamy Aiyar gave evidence at the murder trial and related a strange tale. It is this tale which makes the Uruthiripuram temple murder case an unusual one and a case outside the common run of murder cases of the country and has earned for it a place among the famous criminal cases of Sri Lanka.

Kuppaswamy Aiyar had made a vow at Delft that he was not leaving the temple until the gods showed him the whereabouts of his son. One night, according to him, he had a vision that the Pillayar god raised him by the hand and directed him to go to Uruthiripuram. It was this vision that prompted him to leave Delft and the following morning he got up with difficulty from his sick bed and in the company of one Theevaponnambalam left Delft and arrived at the house of a sixty two year old cultivator, Velupillai Kandiah close to Uruthiripuram. When he arrived at Kandiah's house it was about 10 p.m. and after a meal he slept the night at Kandiah's house which was only about a quarter mile from Kasilinga Sarma's house. According to Kuppaswamy Aiyar about 4 a.m. he had a dream and felt someone hold his left forearm and say "It is

tied in a gunny bag and buried within the boundary of the compound. Take it". Rasamuttu Aiyar and Kandiah, who were sleeping close by, were then awakened by Kuppaswamy Aiyar and they all discussed the story of the dream. Although his companions were sceptical, Kuppaswamy Aiyar insisted on making investigations as soon as it dawned. Kuppaswamy Aiyar and his companions then collected some people and proceeded in the direction of the Pillayar temple. The crowd brought about ten mammoties and commenced to dig along the boundary. Having dug the southern, western and northern boundaries they finally came to the dung heap on the eastern boundary. The dung heap was enclosed with a fence. Kandiah and others then commenced cutting the heap of earth by the side of the dung heap and Kandiah felt his mammoty strike a piece of plank. A little later a sack and piece of cloth became visible and when the articles were pulled out he noticed the knee of a corpse and the sack was unearthed. Kandiah then stopped the digging operations and sent a message to the Colonisation officer, Mr. Vigneswaran who came to the spot and placed some persons to guard the place until the police arrived. Inspector Ponnuthurai arrived in a short while and the body of the missing Kasilinga Sarma, which was later identified by Kandiah was discovered. It was in this remarkable fashion that Kuppaswamy Aiyar's dream revealed the foul murder of his son.

Pasupathy was present at the scene and subsequently Velupillai was brought under police escort when the Chavakachcheri Magistrate, Mr. Vythialingam commenced the inquest proceedings. Having been buried in close proximity to the heap of cow dung, the body was in a fair state of preservation. On the decapitated head was found a pair of earrings which were identified by Rasaledchumy as that of her father. When the body was discovered Velupillai and Pasupathy knew the game was up and made complete confessions to Inspector Ponnuthurai and disclosed all the details of the gruesome crime. Velupillai disclosed the location of the koduwa knife and the spot where the blood-stained clothes were concealed. Among the heap of clothes was found the kambili on which Kasilinga Sarma slept on the night of December 14. This blanket was identified by Rasaledchumy as that of her father and the washerman Velan also identified the dhoby mark which he had put on the kambili. The koduwa knife was recovered when Velupillai pointed out its location in his hut thrust among the eaves of the roof. No traces of human blood were found on the weapon for the obvious reason that it had been thoroughly washed after the crime. The discovery of the koduwa knife was a very strong item of circumstantial evidence against Velupillai. At the time of the trial in the Uruthiripuram case in September 1964, the Privy Council had delivered the order in the

case of Murugam Ramasamy¹ which authoritatively held, overruling the earlier decision of the Court of Criminal Appeal² that when a fact is discovered in the course of a police investigation as a result of a confession of an accused person, evidence of the accused's statement relating distinctly to the discovery of the fact, was admissible. The statement therefore of Velupillai disclosing his knowledge of the weapon with which Kasilinga Sarma could have been cut was an incriminating item of evidence against him. Similar considerations applied to the discovery of the blood-stained clothes belonging to Kasilinga Sarma. The admissibility of Velupillai's statement relating to the discovery of the koduwa knife was an important item of evidence establishing the guilt of Velupillai.

Soon after the discovery of the body Kohilakambal was also arrested and she desired to make a voluntary statement to the Magistrate. She was removed to the Chavakachcheri courts, and after Mr. Vythialingam had taken the usual precautions and warned her that any statement that she made could be used against her in evidence, she made her statement to the Magistrate in chambers. In the course of her statement she said that Velupillai and Pasupathy had been employed by her husband as labourers and that they resided in a hut close to their house. Her husband had pawned her jewellery and with the proceeds purchased a tractor. There were altercations between her husband and herself over his failure to redeem her jewellery and she alleged that she was assaulted by him. She admitted being on terms of intimacy with Velupillai for about a year. On December 14, Velupillai and Pasupathy had brought a bowl full of toddy and drunk it with her husband. Later that night she had seen Velupillai cut her husband's neck with a knife. She heard a cry and then there was silence. Velupillai warned her not to reveal anything to anybody. The body was wrapped in a gunny bag and buried about seventy feet from the house. Another gunny bag was filled with the blood-stained bed sheet, pillow, verty and blanket and carried away by Velupillai and Pasupathy. Kohilakambal's confession admitted her presence at the time of the cutting and the disposal of the body and was relevant evidence against her but was not admissible against either Velupillai or Pasupathy.

As against Velupillai and Kohilakambal there was evidence of motive and opportunity. In addition there was the subsequent conduct of Velupillai as a result of which the koduwa knife and the blood-stained clothes of Kasilinga Sarma were discovered. Apart from motive the case against Kohilakambal established through her admission that she was present at the time of the cutting and the disposal of the body

1. (1963) 66 N. L. R. 264

2. (1964) 66 N. L. R. 463

and the clothes belonging to the deceased. In addition there was the false information she had given to several persons — Kuppaswamy Aiyar, Narayana Sarma and Vigneswaran — that Kasilinga Sarma had left for Delft on the night of December 14, which was an obvious falsehood. The case against Pasupathy was weak. He could only be held responsible on the ground that he had shared the knowledge of Velupillai that the foul murder was planned to be committed on the night of December 14 and assisted his fellow labourer in the disposal of the body and the clothes. His was a minor role in the entire transaction. In the course of the trial a weak suggestion was advanced by the defence that the murder took place elsewhere and not in the house of the deceased, but the lie direct to this suggestion was provided by the Government Analyst, Mr. Ganeshan which left no room for doubt that the murder was committed in the room of the deceased. Mr. Ganeshan testified to the fact that he found spurt marks on the wall and door frame of the room clearly indicating that these marks were caused when the jugular vein was cut and blood spurted from the neck on to the wall and door frame.

Taking a dispassionate view of the Uruthiripuram case it cannot be described as a strong case for the prosecution but the items of circumstantial evidence against the accused, particularly Velupillai and Kohilakambal — motive, opportunity and subsequent conduct — were sufficient to satisfy a reasonable jury that it was a case of more than strong suspicion and that the facts established their guilt beyond reasonable doubt.

The trial in the Uruthiripuram murder case commenced at the Northern Assizes before Justice Tambiah and an English-speaking jury. Justice Tambiah with his intimate knowledge of the conditions that existed in the North was well equipped to hear this sensational case. The Crown was represented by Mr. Cecil Goonewardene, Crown Counsel. With dramatic eloquence Crown Counsel presented the case for the prosecution exposing the shameful intrigue between the labourer and the priest's wife and stressing the items of circumstantial evidence against each of the prisoners. Velupillai, the first accused was defended by Advocate Amirthalingam, the present leader of the Opposition in Parliament. The second accused Pasupathy was defended by Advocate Ganeshalingam while the task of defending Kohilakambal, who was charged with the offence of abetment of murder rested on the shoulders of Advocate Anandacumaraswamy. All three defending Counsel enjoyed a lucrative practice on the criminal side at Jaffna. At the end of a lengthy trial lasting thirty three working days, the jury on September 24, 1964, after deliberating for one and a half hours brought their verdict. They found Velupillai unanimously guilty of murder and by a majority verdict of five to two found Kohilakambal guilty of the same offence. Pasupathy was acquitted by a majority verdict of five to two.

There was a large crowd numbering about 6000 persons present in the precincts of the court when the verdict was announced. The verdict of murder against Kohilakambal could only be on the basis that she shared a common murderous intention with her paramour to cause the death of her husband. After the jury brought their verdict Justice Tambiah pronounced sentence of death on Velupillai and Kohilakambal and acquitted Pasupathy. When the verdict of murder was announced both Velupillai and Kohilakambal fainted in the dock. The sentence of death passed on Kohilakambal was one of the rare instances where a woman was sentenced to capital punishment at Jaffna. Thus ended one of the most celebrated cases at the Northern Assizes in recent times. There was the inevitable appeal to the Court of Criminal Appeal but Counsel for the appellants could urge no valid reasons against the jury's verdict which was correctly based on an acceptance of the prosecution case.

While awaiting their fate in Death Row, Velupillai and Kohilakambal were saved from the hangman's noose when the Government of the day in 1965, decided to grant an amnesty during the Wesak season on all condemned prisoners and their sentences were commuted to imprisonment for life.

The verdict in the Uruthiripuram murder case was a triumph for the prosecution resulting from a painstaking investigation by Inspector Ponnuthurai of the Kilinochchi police, who was commended for his work in connection with the case by the trial Judge and an efficient prosecution by Crown Counsel Goonewardene.

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