

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST  
REPUBLIC OF SRI LANKA.**

In the matter of an Appeal under and in  
terms of Section 331(1) of the Code of  
Criminal Procedure Act No. 15 of 1979.

Court of Appeal No:  
CA/HCC/0423/2017  
High Court of Negombo  
Case No: HC/367/2010

The Democratic Socialist Republic of Sri  
Lanka

**Complainant**

Vs.

Ranthilaka Mudiyanseelage Nilantha  
Kumara  
Dikovita,  
Hendala,  
Wattala.

**Accused**

**AND NOW BETWEEN**

Ranthilaka Mudiyanseelage Nilantha  
Kumara  
Dikovita,  
Hendala,  
Wattala.

**Accused – Appellant**

Vs.

Hon. Attorney General

**Complainant- Respondent**

Before : Menaka Wijesundera J.  
Wickum A. Kaluarachchi J.

Counsel : Chathura Amarathunga for the Accused-Appellant.  
Maheshika Silva, DSG for the Respondent.

Argued on : 29.04.2024

Decided on : 14.05.2024

### **MENAKA WIJESUNDERA J.**

The instant appeal has been lodged to set aside the judgment dated 24.10.2017 of the High Court of Negambo.

The accused appellant (appellant) has been indicted for committing grave sexual abuse under the provisions of the Penal Code.

The appellant has pleaded not guilty to the indictment and the trial has proceeded and upon the conclusion of the trial, the trial judge had found the appellant guilty for the charge in the indictment.

The learned Counsel for the appellant raised the following grounds of appeal,

- 1) The evidence of the victim not being considered adequately,
- 2) The dock statement not being adequately considered,
- 3) The case for the defense not being considered by the trial judge adequately.

The prosecution had led the evidence of the victim, a friend of the victim, the father of the victim, the doctor and the police.

The victim had said in evidence that she had been 11 years of age at the time of the incident and on the day of the incident around 5 30 in the evening the victim had been alone at home and the appellant a neighbor had walked in to the house of the victim and had committed the act of grave sexual abuse on her.

She had very explicitly described the incident in evidence and had identified the appellant also very well. She had been lengthily cross-examined but she had stood the test of cross-examination well with out any contradiction or omission in her narration of evidence.

She had said that after the incident, she had gone running to the house of her friend and had narrated the story to her and the friend also had corroborated her without any loophole in her evidence.

The father had got to know of the incident thereafter and he too had given evidence without creating any doubt in the evidence of the victim.

All these witnesses had been lengthily cross-examined but they had stood the test of cross-examination satisfactorily.

The appellant when the defense had been called had made a statement from the dock and had denied the entire allegation but had said that the prosecution had concocted the story to obtain money from him.

But this position had not been put to the witnesses, they had only been suggested with for giving false evidence.

The appellant has called his wife to the witness box and she had said that the family of the victim has had a dispute with them over the issue of a ring. But this position also had not been suggested to the witnesses of the prosecution.

The Counsel for the appellant had raised the 1<sup>st</sup> ground of appeal saying that the trial judge had not considered the evidence of the victim properly but this Court finds that the trial judge had very leghilly considered the evidence of the victim and had said that her evidence had been without any contradiction nor any omission.

We too observe this to be correct hence we see no merit in the first ground of appeal raised by the Counsel for appellant.

The second ground of appeal had been that the trial judge had not considered the dock statement of the appellant properly but this too we find to be incorrect because the trial judge had lucidly analyzed the same .

Hence that too we find to be without merit.

The third ground of appeal was that the trial judge had not considered the defense properly.

But we find that the trial judge had said that the position taken up in the statement from the dock had not been put to the witnesses, which this Court also observe to be correct.

We also find that the wife of the appellant in giving evidence has said that the victim's family had a dispute with the appellant over a ring but this too had not been suggested to the prosecution witnesses hence this Court hold it to be a belated unacceptable defense.

As such we find that the grounds of appeal raised by the learned Counsel for the appellant to be without merit and this Court also finds the case for the prosecution had been proved beyond a reasonable doubt against the appellant hence, we find that the trial judge had rightly held that the appellant is guilty for the charge in the indictment.

As such, we find there is no reason to set aside the conviction and the sentence of the trial judge as such the instant appeal is dismissed and the conviction and the sentence of the appellant is hereby affirmed.

**Judge of the Court of Appeal**

**Hon. Justice Wickum A. Kaluarachchi**

**I agree.**

**Judge of the Court of Appeal**