

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

**In the matter of an Appeal in terms
of section 331 of the Code of
Criminal Procedure Act No.15 of
1979 read with Article 138 of the
Constitution of the Democratic
Socialist Republic of Sri Lanka.**

The Democratic Socialist Republic of Sri Lanka.

Complainant

Court of Appeal
Case No. CA HCC 224/2023

Vs.

High Court of Chilaw
Case No. HC 240/2019

Randunu Pathrannablage Sudath
Sirinimal

Accused

AND NOW BETWEEN

Randunu Pathrannablage Sudath
Sirinimal

Accused-Appellant

Vs.

The Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Complainant-Respondent

Before: **B. Sasi Mahendran, J.**
 Amal Ranaraja, J.

Counsel: Jagath Nanayakkara for the Accused-Appellant.

Shanil Kularatne, A.S.G. for the Respondent.

Argued on: 24.11.2025

Judgment on: 10.12.2025

JUDGMENT

AMAL RANARAJA, J.

1. The Accused-Appellant (hereinafter referred to as the “Appellant”) has been indicted in the *High Court of Chilaw* in High Court case number HC 240/2019.

2. The charges in the indictment are as follows;

Charge 01

That on or about a date between November 01, 2006 and December 31, 2006, at *Adippala*, within the jurisdiction of this Court, the appellant committed the offence of rape on a minor, who was under the age of 16 years, an offence punishable under section 364(2) of the Penal Code (Amendment) Act No.22 of 1995.

Charge 02

That on or about a date between January 01, 2007 and April 30, 2007, at *Adippala*, within the jurisdiction of this Court, the appellant committed the offence of rape on a minor, who was under the age of 16 years, an offence punishable under section 364(2) of the Penal Code (Amendment) Act No.22 of 1995.

Charge 03

That on or about a date between January 01, 2007 and April 30, 2007, at *Adippala*, within the jurisdiction of this Court, the appellant did commit the offence of rape on a minor, who was under the age of 16 years, an offence punishable under section 364(2) of the Penal Code (Amendment) Act No.22 of 1995.

3. Upon the appellant pleading guilty to the charges, he has been convicted of the same and sentenced as follows;

Imposed a substantial term of 18 years rigorous imprisonment, each, in respect of the first, second and third charges.

Imposed a fine of Rs.5000.00 each, in respect of the first, second and third charges with a term of one month rigorous imprisonment each in default of the payment of the same.

Further, the appellant has been directed to pay a sum of Rs.800,000.00 to PW01 as compensation with a term of 6 months simple imprisonment in default of the payment of the same.

It has also been directed that the substantial term of 18 years rigorous imprisonment each imposed in respect of the first, second

and third charges shall run concurrently and the terms of imprisonment imposed in default of the payment of the fines/compensation shall run consecutively.

4. The appellant being aggrieved by the conviction, disputed judgment and the sentencing order has preferred the instant appeal to this Court.

Ground of appeal

5. When the matter was taken up for argument, it has been drawn to the attention of this Court the fact that the appellant has pleaded guilty to the charges and he has been convicted thereof consequently. In those circumstances, that the appellant intended to limit the ground of appeal to the following;
 - i. Is the sentence imposed by the learned High Court Judge disproportionate and excessive?

Case of the appellant

6. The learned Counsel for the appellant has contended that the substantial term of 18 years rigorous imprisonment imposed in respect of the first, second and third charges which ought to run concurrently is excessive. He has argued that the sentence does not appropriately reflect the nature of the circumstances surrounding the appellant.
7. The learned Counsel for the appellant has set out the following occurrences in mitigation:
 - i. That the appellant was 27 years old at the time of the occurrence and 42 years old at the time of conviction.

- ii. That the appellant had no previous convictions or pending cases.
- iii. That the appellant was married and father of two children.
- iv. That the wife of the appellant was suffering from ill health.
- v. That the fact that the appellant has not wasted the Court's time by pleading guilty to the charges is important for the case.

Case of the prosecution

8. The learned Additional Solicitor General has asserted that the appellant was by conduct, the guardian of PW01 at the time of the incidents in question. That this position of trust has been fundamentally betrayed. That it is important to note that PW01 was only 15 years old, while the appellant was a 27 year old married man. That further, compounding the gravity of the situation, the appellant has not pleaded guilty at the outset but only at the tail end of the trial.

Moreover, that the DNA has confirmed that the appellant is the father of the child born to PW01. That despite this the appellant has failed to provide any form of compensation or maintenance for the child indicating a lack of remorse or accountability for his actions.

9. To begin with, it is reasonable to consider the sentences prescribed by law for the offences stated in the charges set out in the indictment. Section 364(2) of the Penal Code is as follows;

“Whoever-

(a) being a public officer or person in a position of authority, takes advantage of his official position, and commits rape on a woman in his official custody or wrongfully restrains and commits rape on a woman;

- (b) being on the management, or on the staff of a remand home or other place of custody, established by or under law, or of a women's or children's institution, takes advantage of his position and commits rape on any woman inmate of such remand home, place of custody or institution;
- (c) being on the management or staff of a hospital, takes advantage of his position and commits rape on a woman in that hospital;
- (d) commits rape on a woman knowing her to be pregnant;
- (e) commits rape on a woman under eighteen years of age;
- (f) commits rape on a woman who is mentally or physically disabled;
- (g) commits gang rape;

shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall in addition be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person;

Provided however, that where the offence is committed in respect of a person under sixteen years of age, the court may, where the offender is a person under eighteen years of age and the intercourse has been with the consent of the person, impose a sentence of imprisonment for a term less than ten years".

10. Rape remains a widespread and growing issue in Sri Lanka, casting a long shadow over the nation's social fabric. It is not merely a crime, it is a curse that strikes at the very heart of the community. It leaves psychological scars on the victims and instills fear among women in society. Addressing this harrowing issue is essential for fostering safety, respect and dignity for all.

11. Further, in determining the appropriate punishment, the Court is required to consider the same from the point of view of the convict as well as the public.

12. In *Attorney General vs. H. N. De Silva*, 57 NLR 121, Basnayake, A.C.J., as he was then, explaining the matters that should be taken into consideration in determining a sentence has stated as follows;

"In assessing the punishment that should be passed on an offender, a Judge should consider the matter of sentence both from the point of view of the public and the offender, Judges are too often prone to look at the question only from the angle of the offender. A Judge should, in determining the proper sentence, first consider the gravity of the offence as it appears from the nature of the act itself and should have regard to the punishment provided in the Penal Code or other statute under which the offender is charged. He should also regard the effect of the punishment as a deterrent and consider to what extent it will be effective. If the offender held a position of trust or belonged to a service which enjoys the public confidence that must be taken into account in assessing the punishment. The incident of crimes of the nature of which the offender has been found to be guilty and the difficulty of detection are also matters which

should receive due consideration. The reformation of the criminal, though no doubt an important consideration is subordinate to the others I have mentioned. Where the public interest or the welfare of the State (which are synonymous) outweighs the previous good character, antecedents and age of the offender, public interest must prevail".

13. Convictions for rape carry significant implications not just for the victim but for the society as a whole ensuring that individuals convicted of serious offences are dealt with appropriately is crucial for justice and further deterrence of future offences. The legal consequences imposed on individuals are designed to reflect the seriousness of the crime.
14. In *Attorney General vs. Ranasinghe* [1993] 2 SLR 81, S. N. Silva, J, as he was then, in assessing the aggravating circumstances as regards to the offence of rape has stated as follows;

"It is also appropriate to cite an observation made by the Lord Chief Justice in the Court of Appeal of England, with regard to the sentences to be imposed for an offence of rape. In the case of Roberts [4] at page 244. It was observed as follows;

"Rape is always a serious crime. Other than in wholly exceptional circumstances, it calls for an immediate custodial sentence. This was certainly so in the present case. A custodial sentence is necessary for a variety of reasons. First of all to mark the gravity of the offence. Secondly to emphasise public disapproval. Thirdly to serve as a warning to others. Fourthly to punish the offender, and last but by no means least, to protect women. The length of the sentence will depend on all the circumstances. That is a trite

observation, but these, in cases of rape vary widely from case to case.

In the case of, Keith Billiam [5] the Lord Chief Justice repeated the foregoing observations and stated that in a contested case of rape a figure of five years imprisonment should be taken as the starting point of the sentence, subject to any aggravating or mitigating features. He observed further as follows:-

The crime should in any event be treated as aggravating by any of the following factors: (1) violence is used over and above the force necessary to commit the rape; (2) a weapon is used to frighten or wound the victim; (3) the rape is repeated; (4) the rape has been carefully planned; (5) the defendant has previous convictions for rape or other serious offences of a violent or sexual kind; (6) the victim is subjected to further sexual indignities or perversions; (7) the victim is either very old or very young; (8) the effect upon the victim, whether physical or mental, is of special seriousness. Where any one or more of these aggravating features are present, the sentence should be substantially higher than the figure suggested as the starting point”.

15. In the instant case, several aggravating circumstances are demonstrably present. Notably, the victim, PW01, has been of tender years, an age below which she could provide lawful consent to sexual intercourse. The appellant's commission of the offence against PW01 has not been an isolated incident but has been repeated. Moreover, the record indicates preplanning on the part of the appellant. His status as a married man with existing familial responsibility coupled with his advanced age further exacerbates the gravity of his actions.

PW01 has also endured profound physical and mental trauma consequent to these events. This trauma includes the birth of a child at the time of extreme unpreparedness. The necessity of surgical intervention following childbirth and a resulting permanent impairment of her natural reproductive capacity.

16. In those circumstances, it is my view that the disputed sentencing order is proportionate to the seriousness of the acts of the appellant. Accordingly, I am not inclined to interfere with the disputed sentencing order and affirm the same. I dismiss the appeal. I make no order regarding costs.

Appeal dismissed.

17. The Registrar of this Court is directed to communicate this judgment to the *High Court of Chilaw* for compliance.

Judge of the Court of Appeal

B. SASI MAHENDRAN, J.

I agree.

Judge of the Court of Appeal