



**Sisira. J. de Abrew, J**

Heard both counsel in support of their respective cases.

The accused-appellant in this case was convicted for raping a girl named Wedippili Arachchilage Nishani Samanthika and was sentenced to a term of 10 years Rigorous Imprisonment, to pay a fine of Rs. 10,000/- carrying a default sentence of 06 months Rigorous Imprisonment and to pay a sum of Rs. 100,000/- to the victim carrying a default sentence of 1 year Rigorous Imprisonment. Being aggrieved by the said conviction and the sentence the accused-appellant has appealed to this Court.

The Learned Counsel appearing for the accused-appellant submits that he does not challenge the conviction but makes an application to reduce the sentence. Facts of this case may be briefly summarized as follows.

On the day of the incident, the accused-appellant who is a friend of the victim's father has come to the victim's house and consumed liquor with the victim's father and two other uncles of the victim. Thereafter the accused-appellant did not leave the house and slept there. Around 9.30-10.p.m the accused-appellant went inside the house of the victim and committed sexual intercourse on the victim who was 12 years old at that time without her consent and against her will . At the time of the incident she was in Grade six. The medical evidence has corroborated the evidence of the victim . According to the opinion expressed by the Doctor, the injury in the hymen was compatible with vaginal penetration. The accused-appellant in his dock statement has denied the incident. The accused-appellant being a friend of the victim's father should be a middle age person at the time of the incident. According to the evidence the victim used to address the accused –appellant as 'uncle'. The victim was only a 12 year old child and was a school going child . When we consider all these matters, we are unable to show any mercy to the accused-appellant . We therefore refuse to interfere with the sentence imposed by the learned trial Judge.

We affirm the conviction and the sentence and dismiss the appeal. We direct the Prison Authorities to implement the sentence from the date of this judgment.

*Appeal dismissed.*

**Judge of the Court of Appeal**

**P.W.D.C. Jayathilaka, J**

I agree.

**Judge of the Court of Appeal**

Kpm/-