

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

CA Appeal No.39/2010

HC Kalmune No.72/08

HC Ampara 1286/07

Suraweera Mudiyanseelage Upul Kumara
No: 226,
Dutugamunu Pura,
Deegawapiya.

Appellant

Vs.

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

Respondent

Before : **Sisira J. de Abrew, J. &**
P.W.D.C. Jayathilake, J.

Counsel : Dr. Ranjith Fernando for the Accused-Appellant.
Dileepa Peiris SSC for A/G.

Argued &

Decided on : 14.11.2013

Sisira J. de Abrew, J

Heard both counsel in support of their respective cases.

The accused-appellant in this case was convicted for committing grave sexual abuse to a girl named Pradeepa Mayuri which is an offence punishable under section 365B (2)(b) of the Penal Code and was sentenced to a term of 7 years rigorous imprisonment, to pay a fine of Rs.15,000/- carrying a default sentence of 1 year rigorous imprisonment and to pay a sum of Rs.75,000/- as compensation to the victim carrying a default sentence of 2 years rigorous imprisonment. Being aggrieved by the said conviction and the sentence he has appealed to this Court.

Learned Counsel appearing for the accused-appellant submits that he does not challenge the conviction. He submits that at the time of the incident the

accused-appellant was a married person and was having a five years old child. At the time of the incident, he was 28 years old. Further he submits that the accused-appellant has respected the virginity of the victim girl. According to the evidence, the accused-appellant attempted to insert his male organ to the ~~anus~~^{anus} of the victim girl but did not pursue it because of the complaint of pain made by the victim girl.

Learned SSC leaves matter in the hands of the Court. We have considered all these matters. We are of the opinion that the 7 years rigorous imprisonment imposed by the learned trial Judge is excessive. We therefore set aside the term of 7 years rigorous imprisonment and impose 4 years rigorous imprisonment. The fine and the compensation order^δ by the learned trial judge remain unaltered. We direct the Prison Authorities to implement the sentence from the date of conviction (04.03.2007). The learned High Judge is directed to issue a fresh committal indicating the sentence imposed by this Court. Subject to above variation of the sentence the appeal is dismissed.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

P.W.D.C.Jayathilake, J.

I agree.

JUDGE OF THE COURT OF APPEAL

KLP/-