

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

C.A. Appeal No 123/2011
H.C.Kegalle No.1950/2003

S.N. Vigneshwaram
Yatyanthota.

Appellant

Vs.

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

Respondent

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

Counsel : Neranjan Jayasinghe for the Accused-Appellant.
Madhawa Tennekoon SSC for A/G.

Argued &

Decided on : 18.11.2013

Sisira J. de Abrew, J

Heard both counsel in support of their respective cases.

The accused-appellant in this case was convicted for committing the offence of grave sexual abuse to a girl named Madushika Lakmali and was sentenced to a term of 10 years rigorous imprisonment, to pay fine of Rs.1000/- carrying a default sentence of 1 month imprisonment and to pay a sum of Rs.50,000/- as compensation to the victim carrying a default sentence of six months imprisonment. Being aggrieved by the said conviction and the sentence the accused-appellant has appealed to this Court.

According to the facts of this case, on the day of the incident around 4.30 p.m. when the victim girl was returning from the near by well after having a bath, she was dragged by the accused-appellant to a nearby jungle and

2 committed ~~the~~ grave sexual abuse. Somasiri who was watching the girl's movement observed that the victim girl, without going on the usual route to her house, went to a nearby jungle. He with the assistance of two women in the area went to the same direction that the girl went and called out her name. As no one responded he and the two women had said that they would throw stones. Thereafter girl came out. Two minutes later the accused-appellant also came out from the same place.

Learned Counsel appearing for the accused-appellant submits that he does not challenge the conviction. He only submits that the sentence imposed on the accused-appellant is excessive. The police officer giving evidence has admitted that the accused-appellant at the time of the incident was a 16 year old boy. Victim girl was only 11 years old. When we consider the facts of this case and the age of the accused-appellant and the girl, we feel that the sentence imposed by the learned trial Judge is highly excessive. We therefore set aside the term of 10 years rigorous imprisonment and impose a term of 2 ½ years rigorous imprisonment. We direct the Prison Authorities to implement the sentence from the date of conviction (06.12.11). The fine and the compensation ordered by the learned trial Judge remain unaltered. We affirm the conviction.

Learned High Court Judge of Kegalle is directed to issue a fresh committal indicating the sentence imposed by this Court. Subject to above variation of the sentence the appeal of the appellant 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/-