

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

**C.A. Appeal No 24/2009**

H.C.Embilipitiya No.60/2006

Udawalawe Wimalawansa alias  
Samaraweera Wasantha Pushpakumara  
Ihala Kiripattiya Yaya,  
Thibolkatiya,  
Kolabage Ara.

**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 : Dr.Ranjith Fernando for the Accused-Appellant.  
Sarath Jayamanne DSG 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 Amali Maheshika and was sentenced to a term of 10 years rigorous imprisonment, to pay fine of Rs.5000/- carrying a default sentence of 3 months simple 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 the accused-appellant who was at the time of the incident, a Buddhist priest, committed a grave sexual abuse on Amali Maheshika. Amali Maheshika says that she was having sexual relationship with the accused-appellant over a period of one year. According to the evidence, the

sexual relationship has taken place in the house of the girl. Although the charge levelled against the accused-appellant is that of grave sexual abuse, the girl has given birth to a child as a result of the sexual relationship that she had with the accused-appellant. It is clear from the evidence that she had had sexual relationship with the accused-appellant with her consent.

Learned Counsel appearing for the accused-appellant submits that he does not challenge the conviction. He however submits that the sentence imposed on the accused-appellant is excessive. He moves Court to consider reducing the sentence. We note that the victim girl was having sexual relationship with the accused-appellant, who was a Buddhist priest with her consent. According to the evidence, she was, one day, seen seated on a double chair with the accused-appellant who was wearing Buddhist robe. When we consider all these matters, facts of the case and the punishment, we feel that we should give a token reduction to the accused-appellant. We therefore set aside the term of 10 years rigorous imprisonment and impose a term of 8 years rigorous imprisonment. The fine imposed by learned trial Judge remains unaltered. We direct the Prison Authorities to implement the sentence from the date of conviction (02.04.2009)

Learned High Court Judge of Embilipitiya 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/-