

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

P.G.Jamis

**Accused-Appellant**

Vs.

The Attorney- General

**Respondent.**

**C.A.No.318/2006**

**H.C.Badulla No.249/03**

**Before**

: Sisira J. de Abrew, J. ( P/CA) and  
P.W.D.C.Jayathilaka, J.

**Counsel**  
appellant

: Sharan Serasinne for the accused-  
Yashantha Kodagoda ASG for the A.G.

**Argued and**

**Decided on**

: 07.03.2014

**Sisira J de Abrew,J ( P/CA)**

Accused – appellant is present in Court produced by the Prison Authorities.

Heard both counsel in support of their respective cases.

The accused-appellant in this case was convicted for raping his own daughter who was under 16 years of age and was sentenced to a term of 20 years Rigorous Imprisonment, to pay a fine of Rs.25,000/= carrying a default sentence of 03 years Simple Imprisonment and to pay a sum of Rs. 75,000/= as compensation to the victim carrying a default sentence of 05 years Simple Imprisonment (SI). Being aggrieved by the said conviction and the sentence he has appealed to this Court.

According to the facts of this case the accused-appellant who is the father of the victim has committed sexual intercourse on her without her consent. According to the evidence he has done it on two occasions. Learned Counsel appearing for the accused-appellant does not challenge the conviction. She only makes submissions to reduce the sentence. We have considered

the evidence in this case. The father of the victim has raped her. When we consider all the facts and the submissions of the both counsel we do not interfere with the sentence imposed by the trial Judge but we decide to implement the sentence from the date of sentencing by the learned trial Judge. We note that the default sentence of three (3) years Simple Imprisonment for non-payment of the fine of Rs.25,000/= is excessive. We therefore decide to interfere with the said default sentence. We set aside the default sentence of 03 years Simple Imprisonment for non-payment of the fine of Rs.25,000/- and impose 06 months Simple Imprisonment for non-payment of the fine of Rs.25,000/-. We also note the default sentence for non-payment of compensation of Rs. 75,000/= is illegal. The maximum sentence that can be imposed for non-payment of compensation is only 02 years. We therefore set aside the term of 5 years Rigorous Imprisonment for non-payment of compensation. We impose a default sentence of 06 months Simple Imprisonment for non-payment of the compensation of Rs.75,000/=. We direct the Prison Authorities to implement the sentence of 20 years Rigorous Imprisonment from the date of sentencing by the trial Judge. The default sentences should be implemented in addition

to the term of 20 years Rigorous Imprisonment. Subject to the above variation of the sentence, the appeal of the appellant is dismissed. We affirm the conviction.

*Appeal dismissed.*

**PRESIDENT OF THE COURT OF APPEAL**

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

I agree.

**JUDGE OF THE COURT OF APPEAL**

WC/-