

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

R.A.Priyathilaka

**Accused-appellant.**

Vs.

The Attorney-General

**Respondent.**

**C.A.No.113/2008**

**H.C. Jaffna HCEP/2258/04(T)**

**Before**

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

**Counsel**

: Tenny Fernando for the  
Accused-Appellant  
S. Thuriraja DSG for the A.G.

**Argued and**

**Decided on**

: 07.03.2014

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

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

Heard both counsel in support of their respective cases.

The accused-appellant in this case was convicted for raping a 7 ½ year old child whose name is Dulanjali and was sentenced to a term of 15 years Rigorous Imprisonment, to pay a sum of Rs.5000/= carrying a default sentence of 6 months Rigorous Imprisonment and to pay a <sup>sum</sup>~~fine~~ of Rs. 1000,000/= as a compensation to the victim carrying a default sentence of 02 years Rigorous Imprisonment. Being aggrieved by the said conviction and the sentence he has appealed to this Court. Facts of this case briefly may be summarised as follows:

On the day of the incident Dulanjali who was only 7 ½ years old went to the house of the accused-appellant with her younger brother to play. On the compound of the accused-appellant's house he ( the accused-appellant ) gave some fruits to the younger brother and a small bicycle to play. Thereafter the accused-appellant took the girl to a room in his house, and put her on a bed and committed sexual intercourse on the girl. While the accused-appellant was performing sexual intercourse a woman in the neighbour- hood brought tea and

thereafter he got down from bed. The girl went away from the place. She complained the incident to the grand-mother on the same day. Three days later one Chandrawathi questioned Dulanjali about the incident. Dulanjali then divulged the incident to Chandrawathi. Later Chandrawathi examined the under garment of the victim girl and she observed white and yellow stains on the undergarment . The Doctor who examined her 3 days after the incident observed a contusion in the vaginal wall and another contusion in the vagina . He also found a tear in the hymen. Doctor observed blood around vaginal wall of the girl. The accused-appellant did not even make a dock statement.

When we consider the facts of this case we hold that the procecutrix evidence was well corroborated by the medical evidence. When we consider the evidence led at the trial we hold that the case has been proved beyond reasonable doubt. There is no reason for us to interfere with the judgment of the learned High Court Judge. We therefore affirm the conviction.

After hearing the arguments, we gave an opportunity to the counsel for the appellant to address Court as to why the Court should not enhance the sentence. He submits that the accused-appellant is the father of the two children and was a home guard. He further submits that the accused-appellant was sentenced on 10/11/2008 and was languishing in remand due to no fault of him. The case could not be taken up for argument as the translation of the brief was not ready. When we consider all

these matters, we decide not to enhance the sentence. However we decide to direct the Prison Authorities to implement the sentence from the date of this judgment (07/3/2014). We affirm the conviction and the sentence imposed by the learned Trial Judge. We direct the Prison Authorities to implement the sentence from the date of the judgment (07/03/2014). The default sentence should be implemented in addition to the sentence imposed by the Trial Judge.

*Appeal dismissed.*

**PRESIDENT OF THE COURT OF APPEAL**

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

I agree.

**JUDGE OF THE COURT OF APPEAL**

WC/-