

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

C.A. No: 111/2013

Monaragala Case No: 46/2011

S.M. Mahindapal Alias S.D. Mahindapala

Appellant

Vs.

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

Respondent

C.A. No: 111/2013

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Monaragala Case No:46/2011

BEFORE : H.N.J. Perera, J.
P.W.D.C. Jayathilaka, J.

COUNSEL : Niranjan Jayasinghe for the Accused- Appellant.
Thusith Mudalige S.S.C. for the AG.

ARGUED &

DECIDED On : 02.10.2014

H.N.J. Perera, J.

Heard both counsel in support of their respective cases.

At this stage learned Counsel for the Accused-Appellant informs Court that he will confine this appeal to the sentence imposed by the learned High Court Judge on the Accused-Appellant and moves Court to consider the facts and the circumstances of the case and also the fact that the Accused-Appellant is a married person of 43 years of age, and has a mentally deformed child. Therefore he moves Court to take this matter into consideration in granting some relief to the Accused-Appellant on humanitarian ground.

The learned Senior State Counsel submits that as the Accused-Appellant does not challenge the conviction he does not wish to oppose to the application of the counsel for the Accused-Appellant. Therefore he leaves the matter of sentence in the hands of the court.

After considering the facts and the circumstances of the case and giving special attention to the fact that one of the dependants of the Accused-Appellant is a deformed child, we set aside the 10 years Rigorous Imprisonment and substitute with a sentence of 08 years Rigorous Imprisonment. The fine imposed and the compensation ordered by the learned High Court Judge shall remain unchanged but the default sentence shall be reduced to in the case of the fine to one year Simple Imprisonment and in the case of compensation to 02 year Rigorous Imprisonment.

We further direct that the sentence be implemented from the date of conviction and subject to the above variation of the sentence, Appeal of the appellant is dismissed

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

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

I agree

JUDGE OF THE COURT OF APPEAL

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