

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

C.A 86/2013

H.C. Monaragala 74/2011

A.D. Sunil Kumara
Dobagahawela.

Appellant

Vs.

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

Respondent

C.A 86/2013

H.C. Monaragala 74/2011.

Before : H.N.J. Perera J &

K.K. Wickramasinghe, J

Counsel : Indika Mallawarachchi for the Accused-Appellant.

Kapila Waidyarathne A.S.G for the State.

Accused-Appellant is present in court produced by the
Prison Authorities.

Argued &
Decided on : 25.05.2015.

H.N.J. Perera, J.

Counsel for the Accused-Appellant informs court that she will confine this appeal to the sentence imposed by the learned High Court Judge on the accused-appellant and also submits that she is not contesting the 15 years jail term imposed by the learned High Court Judge on the accused-appellant. She moves this court to consider the jail term imposed by the learned High Court Judge in default of the fine and the compensation ordered to be paid to the victim. The learned High Court Judge has imposed a fine of Rs. 50,000/- and in lieu of term of 5 years rigorous imprisonment. Further, the accused-appellant has been ordered to pay Rs. 200,000/- as compensation to be paid to the victim in this case and in lieu of 5 years rigorous imprisonment.

Learned Counsel for the Respondent leave the sentence in the hands of court. Counsel for the Accused -Appellant submits that as

Accused – Appellant is not contesting the other matters in this case to consider back dating the sentence from the date of conviction. Learned counsel for the Respondent vehemently object to the other application of the Counsel for the accused appellant to back date the sentence from the date of conviction. After considering the facts and circumstances and submissions of the counsel for the Accused –Appellant, we substitute a term of six months rigorous imprisonment in lieu of term of imprisonment ordered by the learned High Court Judge for failure of the accused to pay Rs. 50,000 fine. We also substitute a term of one year rigorous imprisonment in place of 5 years rigorous imprisonment ordered by the learned High Court Judge to the accused-appellant in lieu of compensation ordered to be paid to the victim in this case.

We see no reason to act under Section 359 of the Criminal Procedure Code. Therefore subject to the said variation in terms of imprisonments in lieu of the fine and the compensation, the appeal is dismissed.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL.

I agree.
K.K. Wickramasinghe, J.

JUDGE OF THE COURT OF APPEAL.

Vkg/-