

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

CA 243/2012
HC Monaragala 97/2008

Dasanayaka Mudiyanseelage Gunerathne

Bibila

Appellant

Vs.

Hon. Attorney General

Attorney General's Department

Colombo 12

Respondent

Before : H.N.J. Perera, J. &
K.K. Wickramasinghe, J.

Counsel : Neranjan Jayasinghe for the accused-appellant.
H.I. Peiris SSC for the AG.

Decided on : 15.02.2016

H.N.J. PERERA, J.

Accused-appellant is present in Court on bail.

2nd witness named in the indictment Peragaswattegedara Nensina is present in Court.

Counsel for the accused-appellant informs Court that the accused-appellant is prepared to pay a sum of Rs. 300,000/- as the compensation to the said witness in Open Court. Accused-appellant has been convicted for causing grievous hurt to the said witness for an offence punishable under Section 317 of the Penal Code and had been sentenced to five years rigorous imprisonment and to fine of Rs. 5000/- and also had been ordered to pay Rs. 10,000/- as compensation to the said victim. As the accused-appellant is prepared to pay Rs. 300,000/- as compensation to the said victim the learned Counsel for the respondent has no objection in suspending the said term imposed by the learned trial Judge on the accused-appellant.

Witness No. 2 Peragaswattegedara Nensina informs Court that she has received Rs. 300,000/- from the accused-appellant in Open Court.

Therefore, taking into consideration the facts and circumstances of this case and submissions made by the counsel for the accused-appellant and also the fact that the accused-appellant had paid Rs. 300,000/- as compensation to the said victim in this case, we said aside the sentence of five years rigorous imprisonment imposed by learned High Court Judge on the accused-appellant and substitute a term of two years rigorous imprisonment suspended for five years.

The fine imposed by the learned High Court Judge should stand and default sentence of three years imprisonment. We also order that Rs. 300,000/- be paid as compensation to the victim of this case. The said amount is paid in Open Court today. Therefore, the learned High Court Judge is directed to take steps to recover the said fine of Rs. 5000/- imposed on the accused-appellant. Subject to the said variation in the sentence appeal is dismissed.

JUDGE OF THE COURT OF APPEAL

K.K. WICKRAMASINGHE, J.

I agree.

JUDGE OF THE COURT OF APPEAL

KRL/-