

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST

REPUBLIC OF SRI LANKA.

In the matter of an application
under Section 331 (1) of the
Code of Criminal Procedure Act,
No. 15 of 1979.

Court of Appeal Case No:
CA HCC 163/2018

Democratic Socialist Republic of
Sri Lanka.

High Court of Puttalama Case
No: **HC 60/2017**

Vs.

Dombawalage Jayasiri Fernando

Accused

AND NOW BETWEEN

Dombawalage Jayasiri Fernando

Accused – Appellant

Vs.

1. Hon. Attorney General

Attorney General's Department

Colombo 12.

2. Officer in Charge

Police Station

Muldalama.

Respondents

Before: Menaka Wijesundera J.

B. Sasi Mahendran J.

Council: Asela Seresinhe for the Accused – Appellant.

Janaka Bandara, DSG for the State.

Argued on: 22.02.2023

Decided on: 04.04.2023

MENAKA WIJESUNDERA J.

The instant appeal has been filed to set aside the judgment dated 9.10.2018 of the High Court of Kandy.

The accused appellant has been indicted for an offence of statutory rape under the Penal Code.

The appellant had pleaded not guilty and a trial has been held against him and upon the conclusion of the same the learned High Court Judge had found him guilty for the charge and had sentenced him as follows,

- 1) a jail term of 15 years,
- 2) a fine of Rs 10000 in default 2 years rigorous imprisonment,
- 3) compensation of Rs 100000 in default 3 years RI.

When the matter was taken up for argument the Counsel appearing for the appellant stated that he is not contesting the conviction but only the sentence.

The learned DSG appearing for the respondents stated that he is not objecting for the sentence being backdated.

Upon consideration of the submissions of both parties as the appellant has already served 5 years of the entire imprisonment imposed on him this Court is of the opinion that the rigorous imprisonment 15 years should be reduced to 10 years to be operative from the date of the conviction and the two default sentences to be reduced to 1 year imprisonment each and the amount of the fine and the compensation to remain the same.

Subject to the above the instant appeal is dismissed.

Judge of the Court of Appeal.

I agree.

B. Sasi Mahendran J.

Judge of the Court of Appeal.