

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

In the matter of an appeal in terms of Section 14 of the Judicature Act (read with Section 331 of the Code of Criminal Procedure and Sectional 4(2) of the International Covenant on Civil and Political Rights Act No. 56 of 2007.

Democratic Socialist Republic of Sri Lanka

**Complainant**

**Court of Appeal Case No.  
CA. HCC-0335-18**

**High Court of Ratnapura Case No.  
HC 115/2017**

**Vs.**

Imbulamure Sumangala Thero

**Accused**

**AND NOW BETWEEN**

Imbulamure Sumangala Thero

**Accused-Appellant**

**Vs.**

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

**Respondent-Respondent**

**Before : Menaka Wijesundera, J.  
B. Sasi Mahendran, J.**

**Counsel : Saliya Pieris, P.C with Thanuka Nandasiri for the Accused-Appellant.  
Sudharshana De Silva, D.S.G for the Respondent-Respondent.**

**Decided on** : 26/09/2023.

**Menaka Wijesundera, J.**

The instant matter has been filed to set aside the Judgment dated 26/11/2018 of High Court of Ratnapura.

The Accused-Appellant has been indicted for two charges of grave sexual abuse. At the conclusion of the trial, the learned trial Judge had convicted the Accused-Appellant for both charges and has passed a sentence of 12 years rigorous imprisonment with a fine and compensation for each charge. The terms of imprisonment has been ordered to run concurrently.

When the matter was taken up for argument, the learned President's Counsel for the Accused-Appellant stated that he is only contesting the sentence and not the conviction. He brought to the notice of Court that the incident had taken place in January 2006 which is nearly 17 years ago. He further said that the Accused-Appellant is repenting his actions.

The Counsel for the Respondent also made submissions. He objected for sentence being varied.

Considering the submissions of both parties, we observe that the date of offence had been in 2006 and trial had been concluded in 2018 therefore 17 years have lapsed since the date of offence up to date and from the date of offence it had taken nearly 12 years to conclude the trial hence during this passage of time many changes in the life of any human being takes place which is also common to the appellant and the victim.

In the case of C. A. Revision No. CA[PHC]APN/141/2013 decided on 25/03/2015, Justice Chithrasiri had said as follows.

*“Sentencing is an important aspect in the administration of criminal Justice system. The sentence ranges from death penalty to the mere censure in the former of good behavior or probation. There are multiple considerations relevant to the determination of sentence. The most important consideration is the seriousness of the crime.”*

In the instant case we observe that the victim had been around 10 years of age at the time of the offence. But, considering the date of offence which had been in the year of 2006 and the trial had concluded in the year 2018.

Hence, considering the passage of time since the date of offence and the changes that generally takes place with passing of time in the lives of all human beings, this Court is of the opinion that the sentence of 12 years rigorous imprisonment imposed by the trial Judge for charge No. 1 and 2 should be reduced to 8 years rigorous imprisonment each. But, both the sentences to run concurrently and from the date of conviction. The rest of the sentence imposed by the trial Judge with regard to the fine and compensation remains the same.

Subject to the said variation, the instant appeal is dismissed.

**JUDGE OF THE COURT OF APPEAL**

**B. Sasi Mahendran, J.**

I agree.

**JUDGE OF THE COURT OF APPEAL**