

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST

REPUBLIC OF SRI LANKA

In the matter of an appeal against the Order of the Learned High Court Judge of Puttalam made in terms of Section 331 of the Code of Criminal Procedure Act No. 19 of 1979.

The Democratic Socialist Republic of Sri Lanka

Court of Appeal Case No:

CA/HCC/0153-22

HC (Puttalam) Case No:

HC 159/2019

Vs.

Isurumunige Arunashantha

Accused

AND NOW

Isurumunige Arunashantha

Accused-

Appellant

Vs.

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

Respondent

Before: Hon. Justice Menaka Wijesundera
Hon. Justice B. Sasi Mahendran

Counsel: Aminda Ranaweera for the Accused-Appellant.
Ridma Kuruwita, S.C. for the State.

Decided On: 16.06.2023

Hon. Justice Menaka Wijesundera

When the matter was taken up for argument, the learned Counsel for the Accused-Appellant brought to the notice of this Court that, the victim in the instant matter was to be treated adverse and the said application had been made by the learned State Counsel on 13.02.2020. But the High Court Judge had refused the application and had proceeded to trial and had convicted the Accused-Appellant on the same evidence.

We see this as an extreme travesty of Justice. When the victim goes back on her statement we do not see how the trial Judge could have convicted the Appellant on the said evidence.

The Accused-Appellant had been indicted for a charge of grave sexual abuse which means that the Accused-Appellant is alleged to have abused the victim. But if the victim goes back on her statement and when the State Counsel wants the victim to be treated adverse, the learned trial Judge had refused. We see no merit in that Order.

Therefore, we set aside the conviction and the sentence of the Accused-Appellant and allow the instant appeal.

The State Counsel had no objection.

JUDGE OF THE COURT OF APPEAL

Hon. Justice B. Sasi Mahendran

I agree.

JUDGE OF THE COURT OF APPEAL