

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

C.A 195/2010

High Court of Matara 89/08

A.Piyadasa
No: 44/2,
Old Market Road,
Matara.

Appellant

Vs.

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

Respondent

C.A 195/2010**High Court of Matara 89/08**

BEFORE : SISIRA J DE ABREW, J &
P.W.D.C. JAYATHILAKA. J.

COUNSEL : Tenny Fernando for the Accused-Appellant.
Shanil Kularathne SSC for the State.

**ARGUED &
DECIDED ON** : 18.09.2013.

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

SISIRA J. DE ABREW J.

Heard both counsel in support of their respective cases. The Accused – Appellant in this case was convicted of the offence of rape. Prosecution had leveled three charges of rape against him. He was convicted of all three charges. On the first charge he was sentenced to a term of 18 years rigorous imprisonment, to pay a sum of Rs.100,000/- as compensation to the victim carrying a default sentence of one year rigorous imprisonment, and to pay a fine of Rs. 50,000/- carrying a default sentence of six months rigorous imprisonment. On the second

count he was sentenced to a term of 18 years rigorous imprisonment. On the third count he was sentenced to a term of 18 years rigorous imprisonment (RI). Being aggrieved by the said convictions and the sentences he has appealed to this court. The learned trial judge directed that three terms of imprisonment (18 years RI) should run concurrently. Facts of this case may be briefly summarized as follows.

Anoja Darshani who is the victim in this case is the grand daughter of Kusumawathie. Kusumawathie has two daughters. The accused appellant started living together with the elder daughter of Kusumawathie and as a result of the said association elder daughter of Kusumawathie produced a child. Thereafter the accused -appellant started living with the second daughter of Kusumawathie and as a result of the said association second daughter of Kusumawathie produced a child whose name is Anoja Darshani. Anoja Darshani used to sleep in the room where the accused was sleeping. According to the evidence led at the trial, on the instructions of the accused appellant Anoja Darshani used to sleep in the same bed where the accused slept. According to the prosecution, on so many occasions the accused appellant committed sexual intercourse on her. She used to address the accused appellant as "Lokuthatta". At the time of the incident she was about six years old. Doctor who examined the girl has observed several tears in her hymen

The accused appellant did not give evidence or make a dock statement. We have considered the evidence led at the trial and are of the opinion that the prosecution has proved the case beyond reasonable doubt. Learned counsel appearing for the accused appellant assisting court submitted court that there are no compelling grounds to challenge the conviction. We are pleased with this submission. When we consider the evidence led at the trial, we see no reason to interfere with the judgment ✓ of the learned trial Judge and ~~that~~ the sentence imposed on the accused appellant. We affirm the conviction and the sentence. We direct the Prison Authorities to implement the sentence from the date of this judgment (today). We direct that three terms of imprisonment (18 years RI) should run concurrently.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

P.W.D.C. JAYATHILAKA, J.

I agree.

JUDGE OF THE COURT OF APPEAL

Vkg/-