

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

**C.A.131/2012**

H.C. Gampaha Case No. 166/2006

M. Chaminda Kumarasiri  
No: 633/08,  
Kudumirislanda Watte,  
Nandugamuwa.

**Appellant**

**Vs.**

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

**Respondent**

C.A.131/2012 : H.C. Gampaha Case No. 166/2006

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

Counsel : Dr. Ranjith Fernando with Samanthi  
Rajapakshe for the Accused-Appellant.  
Thusitha Mudalige S.S.C. for the A.G.

Argued &

Decided on: 18.05.2015.

H.N.J. Perera,J.

Counsel for the Accused Appellant informs Court that he will confine this appeal to the sentence imposed on the accused-appellant by the learned High Court Judge. The accused-appellant has been charged for committing two offences which were punishable under Section 364 (2) (e) and 365 (2) (a) of the Penal Code. After trial the learned High Court Judge convicted the accused-appellant for the 1<sup>st</sup> count. Learned High Court Judge has imposed 15 years rigorous imprisonment on the accused-appellant and also ordered to

pay Rs. 7,500/- as a fine and ordered to pay Rs.25,000/-as compensation to the victim in this case.

Learned Counsel for the accused-appellant brings to the notice of this Court that at the time of committing this offence the accused-appellant was around 20 years of age and the victim was 8 years of age and they are related and that the accused-appellant has no previous convictions and also the Court would take into account that the victim was married and she had children at the time of giving evidence.

Learned Counsel for the Accused-Appellant moves court to take into account the fact that the accused-appellant is not contesting the conviction but has confined himself to the sentence of this case and to make an order to implement the sentence from the date of conviction.

Learned Senior State Counsel leaves the sentence in the hands of Court.

After considering the facts and the circumstances of this case and the age of the accused-appellant and the fact that the victim has settled down, we substitute a term of 10 years

rigorous imprisonment imposed by the learned High Court Judge on the accused-appellant in this case. The fine imposed by the learned High Court Judge and the compensation ordered to be paid to the victim should stand. Sentences imposed in lieu of the fine and the compensation too should stand.

On the application of the counsel for the Accused-Appellant, we further direct that the sentence imposed on the accused appellant be implemented from the date of conviction namely, 27.06.2012.

Subject to the above variation, the appeal is dismissed.

The learned High Court Judge is directed to issue a fresh committal.

JUDGE OF THE COURT OF APPEAL

K.K. Wickremasinghe,J.

I agree

JUDGE OF THE COURT OF APPEAL

/mds