

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

Court of Appeal Case No : CA HC/116/2013

Lihiniyakumarage premasiri
Near the 4 th lane
Lihiniyawa,
Meegahathanna.

Petitioner

Vs.

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

Respondents

CA116/2013

H.C.(Kalutara)789/2007

Before : **S. Devika de L. Tennekoon, J**
S. Thurairaja, P.C. J
Counsel : Rasika Samarawickrama for the
Accused – Appellant.
Chethiya Gunasekera DSG for the AG
Decided on : 29.11.2017

S. Thurairaja, PC, J

Accused – Appellant is present produced by the Prison Authorities. The counsel makes submissions and points out certain defects in the proceedings, any how he had instructions from his client to withdraw the appeal and to make an application to re consider the sentence imposed on him. The accused -appellant who is present before the court informs that he wants to withdraw the appeal. Counsel makes submissions in mitigations and he submits this had happened in 2001 and the sentence was passed in 2013. Now the accused-appellant is 68 years old in latter part of his life serving in the prison. Therefore, the counsel moves court to reconsider the sentence and to give a maximum possible concession to the accused-appellant. He is not only regretting and also repending for the offence that he has committed. Further he is not contesting the case and he is only seeking redress from the court. Senior Deputy Solicitor General,

Mr. Chethiya Gunasekera maintaining the highest tradition of the Attorney General's Department and submits that he is supporting the conviction but as far as the sentence is concerned he is leaving to the discretion of the court, any how he has no objections for the reasonable reduction of the sentence. Considering all submissions and the facts of the case we find that the conviction is warranted by the available evidence.

Therefore, we are affirming the conviction.

Regarding the sentence we consider 20 years is excessive. The sentence imposed on the 2nd and 3rd counts 20 years rigorous imprisonment is replace with 10 years rigorous imprisonment other than this alteration, all the other conditions will remain as it is. For clearance, the sentence is re produced as follows;

For the 1st count seven years rigorous imprisonment and a fine of Rs. 2,500/- in default 6th months simple imprisonment.

For the 2nd count 10 years rigorous imprisonment and a fine of Rs. 10,000/- in addition Rs. 50,000/- victim to be paid to the Kapugikiyanage Lakshika Sanjeewani in default 1 year rigorous imprisonment.

For the 3rd count 10 years rigorous imprisonment in addition to that Rs. 20,000/- fine in default 6 months simple imprisonment. Additionally, Rs. 700,000/- compensation to be paid to said victim Sanjeewani in default 2 years rigorous imprisonment. The sentences imposed on the 1st, 2nd and 3rd namely 7 years, 10 years & 10 years will run concurrently. If the fine

and the compensations are not paid the default sentences will be implemented consecutively. Regarding the main sentence the accused appellant was in remand from the date of conviction. Therefore, we direct the Prison Authorities to implement the sentence from the date of conviction namely, 04.04.2013. The Appeal against the conviction is affirmed and the appeal against the sentence is allowed.

Judge of the Court of Appeal

S. Devika de L. Tennekoon, J

I agree

Judge of the Court of Appeal

Na/-