

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

**Court of Appeal Case No : CA HC/316/2015**

Jeganathan Sri Kumarendra Raj

**Petitioner**

**Vs.**

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

**Respondents**

CA 316/15

H.C Colombo Case No: 2746/2005

Before : S. Devika de L Tennekoon, J. &  
S. Thurai Raja, PC, J.

Counsel : Accused-Appellant is absent and unrepresented.  
H.I. Pieris, DSG for AG

Decided on : 08.12.2017

S. Thurai Raja, PC. J.

On the last day we have made all attempts to reach the Accused-Appellant and his Counsel, but all our attempts brought no results to us. Therefore on the last occasion, we decided to fix this matter for argument.

State is represented by Mr. Hiranjan Pieris, DSG who assist the Court to reach a just decision.

The learned DSG made submissions to assist the Court in this matter. We perused the petition of Appeal filed by the Accused-Appellant. In a summary, grounds of Appeal can be formulated in a following manner.

- (1) There is no reasonable trial offered to the Accused-Appellant.
- (2) The charge is vague.
- (3) Learned trial Judge couldn't have reached the decision with the available evidence before him.

The Accused-Appellant originally indicted before the High Court of Colombo as follows:

On the 01/05/2001, he has committed an offence of rape of a child known as Mana Marakkalage Jacintha Cooray punishable under Section 364(2) (e) of the Penal Code. The witness commenced her evidence, than the State moved the Court to amend the charge to under Section 365 (b) (2)(b) for committing an offence of grave sexual abuse to a person who is less than 16 years of age.

The said charge was read over to the Accused/Appellant and he pleaded not guilty.

Considering the available material, we find that the prosecution has led the evidence of the prosecutrix, investigating officer and other witness.

The evidence before the Court was clearly identifies the Accused with certainty. Regarding the incident, the child says that on

the day of the incident, she was playing with her friend called Wasanthi, the Accused-Appellant is Wasanthi's uncle. When these two were playing at Wasanthi's place, the Accused- Appellant had sent Wasanthi to buy cigarettes to nearby shop.

The girl was 12 years and few months at the time of the incident was forced by the Accused-Appellant which resulted in making the child unconscious. She made a prompt complaint and revealed the entire incident to the Police. The mother also corroborates the daughter in her evidence.

The learned DSG submits that he is supporting the conviction and the sentence.

Considering all available materials, we find that the learned trial judge has considered all the evidence available before her and given reasons for her findings in length and found the Accused-Appellant guilty.

We analyzed the evidence and the reason given by the judge and we have no reasons to interfere with her decision.

Therefore, we affirm the decision. Accordingly we affirm the conviction and the sentence.

Regarding the sentence, we make special note that the Accused-Appellant was given a reasonable and we have no intention to interfere with the same.

Considering all circumstances, we affirm the conviction and the sentence and dismiss the appeal.

It was brought to our notice that the Accused-Appellant is on bail. Therefore, we direct the Registrar to forward the case record to the Registrar of High Court Colombo to implement the sentence forthwith.

**JUDGE OF THE COURT OF APPEAL**

**S.Devika de L. Tennekoon, J.**

I agree.

**JUDGE OF THE COURT OF APPEAL**

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