

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

C.A. No. 09/2014

H.C. Ampara Case No. 1575/2013

M.C. Ampara Case No. B/8775/12

Y.G. Siripala
No: 14/18 A,
Mahanagapura,
Ampara.

APPELLANT

Vs

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

RESPONDENT

C.A. No. 09/2014

H.C. Ampara Case No. 1575/2013
M.C. Ampara Case No. B/8775/12

Before : W.M.M. Malinie Gunaratne, J. &
S. Devika de L. Tennakoon, J.

Counsel : Isuru Somadasa Assigned Counsel for the
Accused-Appellant.

A.R.H. Bary, S.S.C., for A.G.

Argued &
Decided on : 02.05.2016.

W.M.M. Malinie Gunaratne, J.

At the out set learned Counsel for the Accused-Appellant submitted that he is not pursuing the appeal against the conviction. In the circumstances, the appeal is being considered only in respect of the sentence imposed on the Accused-Appellant.

The Counsel submitted that the accused-appellant has no previous convictions and at the time of committing the offence he was 46 years of age, married and has two children 15 and 13

years of age. He further submitted that the accused-appellant had been working as a home guard in the Rural Security Unit and after this incident he has been dismissed. He urged to vary the sentence and to consider imposing the minimum sentence on the accused-appellant.

The learned Senior State Counsel does not object to the imposition of minimum sentence.

The accused-appellant was indicted for committing an offence punishable under Section 365 (b) 2 (a) of the Penal Code. In deciding what sentence is to be imposed, the Court must necessarily consider the nature of the offence committed, the gravity of the offence, the manner in which it has been committed, the persons who are affected by such crime and the ingenuity in which it has been committed (Attorney General Vs. Mendis 1995 1 SLR 138).

Accordingly, the learned Trial Judge has addressed his mind to those issues and has imposed a sentence of 8 years Rigorous Imprisonment and a fine of Rs.10,000/= with a default sentence of one year. Further compensation of Rs.25,000/= with a default term of one year.

However having taken into consideration the submissions made by Counsel, and the time period he has been in remand we set aside the sentence of 8 years Rigorous Imprisonment and sentence the Accused Appellant to a term of 7 years Rigorous Imprisonment. The compensation and the fine ordered by the learned Trial Judge is affirmed.

The sentence imposed on the Accused-Appellant shall be implemented from today.

Subject to the above variation of the sentence the appeal is dismissed and the conviction is affirmed.

The Registrar is directed to forward the case record with the copy of this order to the High Court of Ampara for the implementation of the said sentence.

Appeal dismissed subject to the above variation.

JUDGE OF THE COURT OF APPEAL

S. Devika de L. Tennakoon, J.

I agree.

JUDGE OF THE COURT OF APPEAL

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