

**IN THE COURT OF APEPAL OF THE DEMOCRATIC SOCIALSIT**  
**REPUBLIC OF SRI LANKA.**

1. Balendran Prabakaran
2. Shamugathas Rajithan

C.A 33-34/2017.

HC/JAFFNA /2052/17

**Accused-Appellants**

Vs.

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

**Complainant -Respondent**

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**C.A HCC No: 33-34/2017**

**High Court of Jaffna 2052/2017.**

**BEFORE** : HON. JUSTICE K. K. WICKREMASINGHE  
HON. JUSTICE K. PRIYANTHA FERNANDO.

**COUNSEL** : Dushith Johnthasan for the Accused Appellants.  
P. Kumarathnam SDSG for the Respondent.

**ARGUED &**  
**DECIDED ON** : 24.01.2020.

**HON. JUSTICE K. K. WICKREMASINGHE,**

Accused –Appellants are present in Court produced by the Prison Authorities.

Counsel appearing for the Accused –Appellants informs Court that default sentence imposed on the accused is 10 years where it is an illegal sentence because the maximum punishment for rape is 20 years and it has to be one fourth of the maximum sentence. ( terms of 291 (1) (d) of the Criminal Procedure Code).

Learned Senior Deputy Solicitor General appearing for the Respondent conceded the abovementioned application. Accordingly, the default sentence is brought down to 5 years simple imprisonment instead of 10 years. Further the date of sentence is 06.03.2017. Considering the period that he is incarcerated we back date the sentence to run from the date of conviction namely, 06.03.2017. The balance sentence is to remain unchanged.

Subject to the above variation of the sentence the appeal is dismissed.

Registrar is directed to send a copy of this order to the Learned High Court Judge of Jaffna and the Prison Authorities.

Website Copy

**JUDGE OF THE COURT OF APPEAL.**

**Hon. Justice K. Priyantha Fernando.**

I agree.

**JUDGE OF THE COURT OF APPEAL.**

Vkg/-