

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

**In the matter of an Appeal in terms of
Section 320 of the Code of Criminal
Procedure Act No. 16 of 1979.**

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

Court of Appeal
Case No. CA HCC 36/2025

Complainant

Vs.

High Court of Ratnapura
Case No. HCR/119/2022

Kodippili Arachchilage Chandrakantha
Dharmakeerthi,
No. 05,
Andaana,
Kahawaththa.

Accused

AND NOW BETWEEN

Kodippili Arachchilage Chandrakantha,
Dharmakeerthi,
No. 05,
Andaana,
Kahawaththa.

Accused-Appellant

Vs.

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

Complainant-Respondent

Before: **B. Sasi Mahendran, J.**
 Amal Ranaraja, J.

Counsel: Ershan Ariyaratnam for the Accused-Appellant.

 Tharaka Kodagoda, S.C. for the Respondent.

Argued on: 03.02.2026

Judgment on: 05.03.2026

JUDGMENT

AMAL RANARAJA, J.

1. The accused appellant hereinafter referred to as the appellant has been indicted in the *High Court of Ratnapura* in High Court case number HCR/119/2022.

The charges in the indictment are as follows:

Charge 01

That on or about November 06, 2019, in *Kahawatta*, in the district of *Ratnapura*, within the jurisdiction of this Court, the appellant committed the offence of grave sexual abuse by placing his penis on the penis of the victim, a minor under the age of sixteen years, for the purpose of sexual gratification, an offence punishable under section 365B(2)(b) of the Penal Code as amended by Act No.22 of 1995, Act No. 29 of 1998 and Act No. 16 of 2006.

Charge 02

That in the same course of transaction as above, the appellant committed the offence of grave sexual abuse by inserting his penis into the anus of the said minor, who is under the age of sixteen years, for the purpose of sexual gratification, an offence punishable under section 365B(2)(b) of the Penal Code as amended by Act No.22 of 1995, Act No. 29 of 1998 and Act No. 16 of 2006.

Charge 03

That in the same course of transaction as above, the appellant committed the offence of grave sexual abuse by inserting his penis into the mouth of the said minor, who is under the age of sixteen years, for the purpose of sexual gratification, an offence punishable under section 365B(2)(b) of the Penal Code as amended by Act No.22 of 1995, Act No. 29 of 1998 and Act No. 16 of 2006.

2. At the conclusion of the trial, the learned High Court Judge has proceeded to acquit the appellant of the first and third charges and has convicted him of the second charge.
3. Thereafter, the learned High Court Judge has imposed a term of eight years rigorous imprisonment and also a fine of Rs. 10000.00 with a term of three months simple imprisonment in default. The appellant has also been directed to pay a sum of Rs. 75000.00 as compensation to PW01 with a term of six months rigorous imprisonment in default.

Case of the prosecution

4. In November 2019, PW01 born on June 08, 2011, has been a nine year old boy residing with PW03 (referred to as 'Seeya') and his wife in an estate in *Kahawatta*.

5. In the evening of the incident, the appellant has visited PW03's residence. Upon the conclusion of the visit, PW01 has volunteered to walk the appellant back to the main road. Midway, the appellant has diverted PW01 from the pathway into a tea plantation.
6. There, the appellant has allegedly undressed PW01 and attempted to make PW01 touch his penis. PW01 has refused. Thereafter, it is alleged that the appellant has inserted his penis into PW01's anus.
7. When PW01 failed to return home, PW03 and his wife have begun searching for him. At this point PW01 has rushed home, washed himself and disclosed the incident involving the appellant to PW03. Consequently, a police complaint has been lodged, an investigation commenced and PW01 has been referred for a medico-legal examination.
8. PW08, *Dr. H. D. M. S. K. Dissanayaka* has examined PW01 and prepared a medico-legal report which has been subsequently produced as evidence marked 3703.

Case of the appellant

9. The appellant has denied allegations leveled against him. He has further asserted that he has never had any form of acquaintance or contact with PW01. The appellant has maintained that PW01 is a stranger and any purported link between them is fabricated.
10. As previously referenced, *Dr. Dissanayaka* (PW08) has examined PW01 and authored a medico-legal report. This report has been later tendered as evidence marked 3703.

11. On November 07, before his formal examination, PW01 has provided a short history of the alleged event. He has recounted that the particular incident of grave sexual abuse had taken place the evening prior, perpetrated by a visitor to his residence. PW01 has explained that the assault occurred as he attempted to help the person depart, illuminating their path with a torch light. He has further detailed the act specifying that the assailant inserted his penis into PW01's anus.
12. Upon examining PW01, *Dr. Dissanayaka* (PW08) has observed mucosal tears around the anal orifice. He has subsequently concluded that these findings were consistent with recent anal penetration. The facts discussed above align directly with PW01's consistent account, particularly regarding two key aspects.
 - i. The specific date in which the alleged incident occurred, i.e. November 06, 2019.
 - ii. The nature of the grave sexual abuse which involved a person inserting a penis into PW01's anus.
13. Further, *Dr. Dissanayaka's* expert opinion provided significant corroboration to PW01's narrative, concerning the nature of the grave sexual abuse.
14. In addressing the issue of identification of the appellant by PW01, it is important to consider the sequence of events and the nature of the interactions between the parties involved. The appellant during his visit to the residence of PW01, has been observed spending approximately half an hour in the company of PW03, consuming alcohol. This period has afforded PW01 a considerable opportunity to observe the appellant's features. Notably, PW01 has also had an opportunity to further study the

appellant's characteristics while assisting the appellant's departure from the premises, suggesting that the observation was neither brief nor superficial.

15. Further, the appellant has not challenged the fact that PW01 had substantial occasions to examine and recognize his features during those events. Given these circumstances, the identification of the appellant in open court is logical and should not be deemed unreliable merely because it constitutes a dock identification.
16. The consistent and prolonged opportunity for PW01 to observe the appellant supports a credible and orderly identification process, dismissing any concerns about the validity of such identification.
17. PW01 has been only eleven years old when he entered the witness box. Despite his tender age, he has remained steadfast on every material particular of the case. The identity of the accused, the nature of the sexual assault, the place where it occurred and the approximate timeframe have been narrated by the witness. Whatever discrepancies appear in his narrative concern matters that are plainly peripheral. In prosecutions of sexual abuse, it has been consistently held that lapses of this kind do not undermine the probative value of a child witness's testimony.
18. In the case of *The Attorney General Vs. Sanadnam Pitchi Theresa* [2011] 2 SLR 292, Shiranee Tilakawardane, J. stated:

“...that whilst internal contradictions or discrepancies would ordinarily affect the trustworthiness of the witness statement, it is well established that the Court must exercise its judgment on the

*nature and tenor of the inconsistency or contradiction and whether they are material to the facts in issue. Discrepancies, which do not go to the root of the matter and assail the basic version of the witness, cannot be given too much importance. (Vide **Bogm Bhai Hirji Bhai Vs. State of Gujarat, AIR (1983) SC 753**)”*

19. The delay between the incident and the trial further explains the occasional lapse of memory. Trauma studies and developmental psychology show that children tend to retain the core of the stressful event while losing peripheral details over time. Such selective memory loss is not a sign of fabrication, it is a normal cognitive response to trauma and delay. It would therefore be unsafe and unfair to conclude that the minor inconsistencies in PW01’s narrative were engineered deliberately.
20. Additionally, PW01’s birthday has not been disputed and this fact has been recorded as an admission. As a result, it is undisputed that PW01 was nine years old at the time of the incident, placing him under the age of sixteen years.
21. The learned High Court Judge has examined the two competing narratives in their entirety, refusing to assess isolated pieces of evidence in a vacuum. Having undertaken this holistic approach, the learned High Court Judge has found the appellant’s version inherently improbable, because the appellant’s narrative has stood in conflict with the weight of independent evidence. The court has declined to place any reliance on it and instead, adopted the prosecution’s narrative.

22. In those circumstances, I am not inclined to interfere with the conviction, disputed judgment and the sentencing order and proceed to affirm the same. I dismiss the appeal and make no order regarding costs.

Appeal dismissed.

23. The Registrar of this Court is directed to send this judgment to the *High Court of Ratnapura* for compliance.

Judge of the Court of Appeal

B. SASI MAHENDRAN, J.

I agree

Judge of the Court of Appeal