

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

**In the matter of an Appeal under and in terms of  
the Section 331 (1) of the Code of Criminal  
Procedure Act No. 15 of 1979 read with Article 38  
of the Constitution of the Democratic Socialist  
Republic of Sri Lanka**

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

**CA HCC 0002/2024**

High Court of Puttalam  
Case No. HC 24/22

Vs.

**Complainant**

Abeygoda Liyanage Podi Appuhamy

**Accused**

**AND NOW BETWEEN**

Abeygoda Liyanage Podi Appuhamy

**Accused-Appellant**

Vs,

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

**Complainant-Respondent**

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

**Counsel:**        Nuwan De Alwis with Wazeem Amher for the Accused-Appellant  
  
                         Wasantha Perera, D.S.G. for the State

**Argued on:**    30.01.2026

**Judgment on:** 17.02.2026

### **Judgment**

**Amal Ranaraja. J,**

1. The accused-appellant (hereinafter referred to as “appellant”) has been indicted in the High Court of Puttalam in the High Court Case Number HC-24/22. The charges in the indictment are as follows;
  - i. On or around 21.12.2018, at *Yaya 07*, within the jurisdiction of this Court, you used certain body part of *Lanka Hewayalage Methsara Newmanthi Nayanananda*, a person under 16 years of age, to obtain sexual gratification, namely by licking the female genitalia of said *Lanka Hewayalage Methsara Newmanthi Nayanananda*, thereby committing an offence of ‘grave sexual abuse’ punishable under Section 365B (2)(b) of the Penal Code as amended by penal code (amendment) act no.22 of 1995, penal code (amendment) act no.29 of 1998 and penal code (amendment) act no.16 of 2006.
  - ii. At the time, location and course of action mentioned in the first charge above, you have inserted a finger into the female genitalia of said *Lanka Hewayalage Methsara*

*Newmanthi Nayanananda*, in order to gain sexual gratification, thereby committing 'grave sexual abuse' punishable under Section 365B (2)(b) of the Penal Code as amended by penal code (amendment) act no.22 of 1995, penal code (amendment) act no.29 of 1998 and penal code (amendment) act no.16 of 2006.

- iii. At the time, location and course of action mentioned in the first charge above, you committed the offence of 'sexual harassment' punishable under Section 345 of the penal code as amended by penal code (amendment) act no.22 of 1995 and penal code (amendment) act no.16 of 2006, by squeezing the breasts of said Lanka *Hewayalage Methsara Newmanthi Nayanananda*.
2. At the conclusion of the trial the appellant has been convicted of the offences in the charges and sentenced as follows;
    - i. Sentenced to seven years rigorous imprisonment in respect of the first and second charges and another five years rigorous imprisonment in respect of the amended third charge. It has been directed that such substantial terms of rigorous imprisonment shall run concurrently.
    - ii. Further, the appellant has also been imposed a fine of Rs.15,000/- each in respect of the first and second charges with a term of 6 months simple imprisonment each, in default and a further fine of Rs.10,000/- in respect of the amended third charge with a term of 3 months simple imprisonment, in default. The appellant has been also ordered to pay a sum of Rs. 200,000/- as compensation with a term of one-year simple imprisonment in default.
  3. Being aggrieved by the conviction and the disputed judgement, together with the sentencing order, the appellant has preferred the instant appeal to this Court. When the matter was taken up for argument the learned Counsel for the appellant informed the Court that he intended to limit the ground of the appeal to the following;

- i. The sentence imposed by the learned High Court Judge is disproportionate and excessive, therefore the sentence is contrary to the sentencing policy.
4. The learned Counsel for the appellant contends that the sentence imposed, specifically ten years rigorous imprisonment each for the first and second charges and five years rigorous imprisonment for the amended third charge are excessive.

Additionally, the learned Counsel for the appellant has contended that the following circumstances be taken into consideration and a variation of the sentence be made in favor of the appellant. The learned counsel for the appellant has set out the following occurrences in mitigation;

- i. That the appellant was sixty-eight years old at the time of the occurrence
  - ii. That the appellant had no previous convictions or pending cases
  - iii. That the appellant was a first-time offender
  - iv. That the offences in question occurred in 2018, over seven years ago and the charges have weighed upon the appellant for nearly one and a half years representing a substantial period of prolonged uncertainty.
  - v. That the appellant has demonstrated remorse while refraining from challenging the conviction and instead limiting the appeal to the sentencing order.
5. The learned Deputy Solicitor General argued for an appropriate sentence for the appellant.
6. To begin with it is reasonable to consider the sentence described by law for the offences stated and the charges set out in the indictment.

Section 365B (2)(b) of the Penal Code as amended by the Penal Code (Amendment) Act, No.16 of 2006 is as follows;

(2) *Whoever-*

*(b) commits grave sexual abuse on any person under eighteen years of age shall be punished with rigorous imprisonment for a term not less than seven years and not exceeding twenty years and with fine and shall also be*

*ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.*

Section 345 of the Penal Code as amended by the Penal Code (Amendment) Act, No.16 of 2006 is as follows;

*345. Whoever, by assault or use of criminal force, sexually harasses another person, or by the use of words or actions, causes sexual annoyance or harassment to such other person commits the offence of sexual harassment and shall on conviction be punished with imprisonment of either description for a term which may extend to five years or with fine or with both and may also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.*

7. Prosecution witness PW1 has been only about 11 years old when the appellant committed the sexual offences against her. Whenever a child is subjected to such grave violations the consequences extend well beyond the immediate physical harm. Experiences of sexual abuse at such formative age frequently leave indelible psychological scars disrupting emotional development, impairing educational progress and undermining the victim's prospects for a stable and fulfilling adult life.

In recognition of this vulnerability the law imposes a heightened duty on the Courts to safeguard the welfare of minors and to denounce, through proportionate sentencing conduct that harm the bodily integrity and human dignity. Accordingly, the age, breach of trust inherent in offences against children and the long-term social cost of such offences must be treated as paramount considerations when meting out punishment to offenders of such offences.

8. Further, in determining the appropriate punishment, the Court is required to consider the same from the point of view of the convict as well as the public.

9. In *Attorney General vs. H.N. de Silva* 57 NLR 121, Basnayake, ACJ, in explaining the matters that should be taken into consideration in determining the sentence has stated as follows;

*“In assessing the punishment that should be passed on an offender, a Judge should consider the matter of sentence both. from the point of view of the public and the offender, Judges are often prone to look at the question only from the angle of the offender. A Judge should, in determining the proper sentence, first consider the gravity of the offence as it appears from the nature of the act itself and should have regard to the punishment provided in the Penal Code or other statute under which the offender is charged. He should also regard the effect of the punishment as a deterrent and consider to what extent it will be effective. If the offender held a position of trust or belonged to a service which enjoys the public confidence that must be taken into account in assessing the punishment. The incident of crimes of the nature of which the offender has been found to be guilty and the difficulty of detection are also matters which should receive due consideration. The reformation of the criminal, though no doubt an important consideration is subordinate to the others I have mentioned. Where the public interest or the welfare of the State (which are synonymous) outweighs the previous good character, antecedents and age of the offender, public interest must prevail.”*

10. It is seen that the appellant has been sixty-eight years old at the time he committed the offences in the charges and the offences pre-planned.

However, I also take into consideration, the fact that the offences have not been repeated on the victim and also that the appellant does not have previous convictions or pending cases.

11. Accordingly, taking the above matters into consideration, I am of the view that the ends of justice would be satisfied if a lesser sentence be imposed.

12. Therefore, I set aside the sentences of 10 years rigorous imprisonment each imposed in respect of the offences stated in the first and second charges and, sentence the appellant to a term of 09 years rigorous imprisonment each in respect of such offences.

The fines imposed in respect of the first, second and third offences together with the sum ordered to be paid as compensation, together with the terms of imprisonment imposed in default of payment of the fine/compensation shall remain unchanged.

However, the substantive terms of nine years rigorous imprisonment each and the five years rigorous imprisonment imposed shall run concurrently and commence from the date of conviction, i.e. 15<sup>th</sup> of November 2023.

13. Subject to the above variations, the appeal is partly allowed.

I make no order regarding costs.

Appeal partly allowed.

The Registrar of this Court is directed to communicate this judgement to the High Court in Puttalam for compliance.

**Judge of the Court of Appeal**

**B. Sasi Mahendran, J.**

**Judge of the Court of Appeal**

