

**THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST**

**REPUBLIC OF SRI LANKA**

An Appeal filed in terms of Section 331 of the Code of Criminal Procedure Act No. 15 of 1979 read with Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Democratic Socialist Republic of Sri Lanka

**Complainant**

**Vs**

Court of Appeal Case No:

**CA/HCC/151/2025**

High Court of Rathnapura

Case No: **HC 163/2022**

Lalitha Fedrik Kumara alias Sudu

**Accused**

**AND NOW BETWEEN**

Lalitha Fedrik Kumara alias Sudu

**Accused – Appellant**

**Vs**

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

**Complainant - Respondent**

Before : **P. Kumararatnam, J.**  
**Pradeep Hettiarachchi, J.**

Counsel : Hafeel Farisz with Shannon Thilakarathne and Ashwin Pragash for the  
Accused – Appellant  
Dileepa Peris ASG for the Respondent.

Argued on : 01.12.2025

Decided on : 13.02.2026

**Pradeep Hettiarachchi, J**

### **Judgment**

1. The accused-appellant in the present appeal was indicted before the High Court of Ratnapura on one count of kidnapping and two counts of rape of a girl under 16 years of age, offences punishable under sections 354 and 364(2)(e) read with section 364(2) of the Penal Code.
2. At the trial, seven witnesses testified for the prosecution, and the appellant made a dock statement. At the conclusion of the trial, the learned High Court Judge found the appellant guilty on the third count and convicted him accordingly. The appellant was sentenced to rigorous imprisonment for a period of 18 years and fined a sum of Rs. 10,000.00, with a default sentence of two months' simple imprisonment. Furthermore, the appellant was ordered to pay compensation in the sum of Rs. 150,000.00 to the victim, with a default sentence of six months' simple imprisonment.
3. Initially, the appellant advanced several grounds of appeal; however, at the hearing, he confined his submissions solely to the sentence imposed on him. Accordingly, the only

question that warrants determination by this Court is whether the sentence imposed on the appellant is excessive in the circumstances of the case.

**The background facts:**

4. The victim was a 15-year-old student at Wewelwatta Tamil School during the relevant period. The appellant was her neighbor and a father of two. According to the victim, the appellant photographed her while she was bathing and later threatened to post the images on social media. Subsequently, the victim was taken to the appellant's home, where he removed her clothes and had sexual intercourse with her. The victim stated that the appellant engaged in sexual intercourse with her on three separate occasions; however, she did not report the incidents to anyone because the appellant threatened to publish the photographs if she divulged.
5. The incident came to light after the victim fainted at school and was found to be pregnant following a medical examination. The victim subsequently gave birth to a child. During the investigation, blood samples were taken from the victim, the appellant, and the child for DNA analysis. The results proved that the appellant was the biological father of the child. The DNA report was led in evidence at the trial and was admitted by both parties under Section 420 of the Code of Criminal Procedure Act.
6. When making submissions in mitigation, it was submitted that the appellant has five children and his wife is currently working abroad. Furthermore, the appellant's mother-in-law is paralyzed; consequently, the appellant is the sole breadwinner and caregiver for his children.
7. In imposing a sentence upon a convicted person, the court is required to consider both mitigating factors and aggravating circumstances. The court must also take into account the principle of deterrence and the sentence's overall impact on society.
8. In determining the deterrent value of a sentence, the Court must have due regard to the specific facts and circumstances of the case. This includes the nature of the offense, the manner in which it was planned and executed, and the motive for its commission. Furthermore, the Court must consider the conduct of the accused before, during, and

after the offense, the nature of the weapons or means employed, and all other attendant circumstances relevant to the gravity of the crime.

9. The consideration of aggravating or mitigating circumstances is fundamentally relevant to assessing the seriousness of an offense. The weight accorded to these factors in sentencing depends on the unique circumstances of the case, and the Court maintains the discretion to consider any factor it deems relevant to the severity of the sentence. Consequently, the proportionality of the sentence to the gravity of the offense must be both carefully and cogently reasoned.
10. The following authorities emphasize the significance of imposing a sentence proportionate to the gravity of the offence and provide key guidelines to assist in determining an appropriate sentence.
11. In *Attorney General vs. Mendis (1995) 1 SLR 138*, Gunasekara, J. held that,

*“Once an accused is found guilty and convicted on his own plea or after trial the judge in deciding on sentence, should consider the point of view of the accused on the one hand and the interest of society on the other. The nature of the offence committed the machinations and manipulations resorted to by the accused to commit the offence, the effect of committing such a crime insofar as the institution or organization in respect of which it has been committed, is concerned, the persons who are affected by such crime the ingenuity with which it has been committed and the involvement of others in committing the crime are matters which the judge should consider.*

12. As held in the case of *Alister Anthony Pereira vs. State of Maharashtra [2012] AIR 3820 (SC)*,

*“Sentencing policy is an important task in the matters of crime. One of the prime objectives of criminal law is imposition of appropriate adequate just and proportionate sentence commensurate with the nature and gravity of the crime and the manner in which the crime is done. There is no straight-jacket formula for sentencing an accused on proof of crime. The courts have evolved certain principles: Twin objectives of sentencing policy are deterrence and correction*

*what sentence would meet the ends of Justice depends on the fact and circumstances of each case and the court must keep in mind the gravity of the crime, motive for the crime, nature of the offense and all other attendant circumstances. The principle of proportionality in sentencing is a crime duo is well entrenched in criminal jurisprudence. As a matter of law proportion between crime and punishment bears mostly relevant influence in determination of sentencing the crime to a full stop the court has to take into consideration all aspects including social interest and consciousness of the Society for award of appropriate sentence.”*

13. In ***Illakotulena Gamaralalage Thilakerathna Officer in Charge, Motor Traffic Division, Police Station, Kandy SC Appeal No. 173/2017***, decided on: 22/10/2024, the Supreme Court observed that:

*Consideration of aggravating or mitigatory circumstances generally, has relevance to the assessment of the seriousness of the offence. The appropriate effect on such consideration in sentence would depend on the circumstances of each case, in which the Court can take note of any factor it considers to aggravate or mitigate the imposed sentence. As such, the consideration of proportionality of the sentence to the gravity of the convicted offence, must be well reasoned.*

14. In the present appeal, the victim was 15 years of age at the time of the alleged offense. The appellant was 27 years old at the time, and he now has five children (as noted in previous sections). In his dock statement, the appellant denied using photographs of the victim to threaten her, though he admitted to having a relationship with her. It is also noteworthy that, during the investigation, the police did not recover any evidence indicative of the appellant having taken such photographs.
15. The evidence further indicates that the appellant and the victim’s family were neighbors who were on good terms and visited each other frequently. The victim did not reveal the incident to anyone until she fainted at school and was subsequently examined by a doctor.

16. Furthermore, it is evident that the appellant did not use physical violence against the victim during the commission of the alleged offense. According to the victim's own testimony, she returned to the appellant's house following the first incident without being under any immediate threat. Finally, the age gap between the appellant and the victim is 12 years.
17. In offences involving rape, the Court is duty-bound to consider the plight of the victim, including the social stigma that may follow the victim throughout her life and which, in many instances, irreparably destroys the prospects of a normal and dignified existence. A rapist not only violates the victim's privacy and bodily integrity, but also inflicts deep and lasting physical and psychological trauma. The Court must therefore strive to do justice both to society and to the victim, while at the same time ensuring fairness to the offender.
18. It is equally true that, in the matter of sentencing, the Court must assess whether the punishment imposed is proportionate to the gravity of the offence and consistent with the legislative intent underlying the prescribed sentence. In offences of this nature, leniency can be shown only where compelling and convincing reasons exist, failing which an unduly lenient approach would undermine the administration of criminal justice.
19. In the present case, the victim was a student at the time of the alleged crime; consequently, she was denied further education after becoming pregnant as a result of the act. As established during the trial, she is now employed as a domestic worker. It is clear that the incident has devastated the victim's future, preventing her from pursuing her education and forcing her to rely on domestic labor to meet her basic needs. Evidently, the appellant took undue advantage of the victim's vulnerability, particularly as her mother was not in the country during the relevant period.
20. The appellant has two children with his wife and another two with his wife's sister, though he is not legally married to the latter. The appellant's wife is currently working abroad, and he is living with his wife's sister. Consequently, the appellant has fathered a total of four children (in addition to the child born to the victim).

21. The learned trial Judge has carefully and comprehensively examined the circumstances of the case, taking into account the appellant's socio-economic background as well as the plight of the victim, particularly the hardships endured by her as a consequence of the incident. Due consideration has also been given to the fact that the appellant is a father of four children, and to his character, including the absence of any prior convictions.
  
22. In my view, this is undoubtedly a fit and proper case warranting a deterrent sentence. However, having regard to the absence of physical violence in the commission of the offence, the age of the appellant, and the other attendant circumstances, and with considerable reluctance, I am inclined to show limited leniency. Accordingly, the sentence of 18 years' imprisonment imposed on the appellant is reduced to 13 years. The fine and compensation ordered by the learned trial Judge shall remain undisturbed.
  
23. Subject to the above variation in the sentence, the appeal is dismissed. It is further ordered that the sentence imposed shall run from the date of conviction.

**Judge of the Court of Appeal**

**P. Kumararatnam,J**

I agree,

**Judge of the Court of Appeal**