

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

In the matter of an Appeal under and in terms
of Section 331 of the Code of Criminal
Procedure Act No.15 of 1979.

CA Case No: CA-HCC 230/2020

HC of Trincomalee Case No : HCT 1015/2020

The Democratic Socialist Republic of Sri
Lanka.

COMPLAINANT

Vs

Mohamed Haniffa Riyas

ACCUSED

And Now in Between

Mohamed Haniffa Riyas

Presently at,

Remand Prison

ACCUSED -APPELLANT

Vs

The Attorney General

Attorney General's Department

Colombo 12.

COMPLAINAT- RESPONDENT

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

Counsel : Anil Silva PC, for the Accused- Appellant
Azard Navavi ASG, for the Respondent

Written

Submissions: 07.01.2023 (by the Accused-Appellant)

On

Argued On : 10.12.2025

Judgment On: 11.02.2026

JUDGEMENT

B. Sasi Mahendran, J.

The Accused-Appellant (hereinafter referred to as 'the Appellant') was indicted before the High Court of Trincomalee on the following charge,

“That on or about 28.05.2017 within the Jurisdiction of this Court in Periyaveli, you in order to fulfill your carnal lust, had placed your hand on the female organ of Vimalanathan Dhatska alias Vimalanathan Dhatska, that is you having groped the sexual organ with your hands of the above named Vimalanatha Dhatska alias Vimalanathan Dhakshika and that you have thereby committed an offence of a grave sexual abuse punishable under Section 365 (b) (2) (b) of the Ceylon Penal Code as amended by Act No 22 of 1995, Act No 29 of 1998 and Act No 16 of 2006.”

The prosecution presented evidence of 11 witnesses and marked documents as P1 to P4. In defence the appellant made a dock statement. At the conclusion of the trial, the Learned High Court Judge, by judgment dated 02.12.2020, found the Accused guilty of the charge and imposed a sentence of 10 years of imprisonment and a fine of Rs. 10,000/- and 6 months of rigorous imprisonment in default. Further, compensation of Rs. 500,000/-

was ordered to be paid to the victim; in default, a term of 2 years of rigorous imprisonment is imposed.

Being aggrieved by the said conviction and the sentence the Appellant preferred this Appeal seeking to set aside the said judgment dated 02.12.2020 by the Learned High Court Judge of Trincomalee.

When the matter came before us on the 10.12.2025, the learned Counsel for the Accused-Appellant brought to our attention that the Accused-Appellant had faced a similar case in the High Court of Trincomalee, Case No. 999/19. He was convicted on the same day by High Court Judge *Elancheliyan* at the Trincomalee High Court.

The same High Court Judge, in the instant case (Case No. HC 1015/20), found the Accused-Appellant guilty on the same day for the identical offence. This indicates that both cases were presided over by the same judge in the same court. In HCC 228/20 we delivered the judgment today, ordering re trial on the basis that it is not appropriate for the Learned High Court Judge to preside over and adjudicate similar offences involving the same individual.

On this basis, we are not satisfied with the conviction recorded on 02.12.2020. Therefore, we quash the conviction and the sentence imposed and order a retrial against the Accused-Appellant.

JUDGE OF THE COURT OF APPEAL

Amal Ranaraja J,

I AGREE

JUDGE OF THE COURT OF APPEAL