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

In the matter of an Application for Revision under and in terms of the Constitution read with Article 138 of the Constitution read with Section 364 of the Criminal Procedure Act No. 15 of 1979.

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

Court of Appeal
Revision Application
No. CPA 106/2023

Complainant

Vs.

High Court of Hambanthota
Case No. HC 21/2021

Sina Patabandige Samitha Wasantha Kumara,
Rathnapura Road,
Palugaswala, Lunama,
Ambalanthota.

Accused

AND NOW BETWEEN

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

Complainant-Petitioner

Vs.

Sina Patabandige Samitha Wasantha Kumara,
Rathnapura Road,
Palugaswala, Lunama,
Ambalanthota.

Accused-Respondent

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

Counsel: Lakmini Girihagama, D.S.G. for the Complainant-Petitioner.

Rahul Ruwanara Jayathilleke for the Accused-Respondent.

Supported on: 22.10.2025

Decided on: 19.11.2025

ORDER

AMAL RANARAJA, J,

1. The accused respondent (hereinafter referred to as the "respondent") has been indicted in the *High Court of Hambanthota* in High Court case number HC/21/2021.

   The charges in the indictment are as follows.

   Charge 01
   That on or about September 01, 2015, in *Nonagama*, in the district of *Hambanthota*, within the jurisdiction of this Court, the respondent abducted *Lokuhannadige Rupika Damayanthi* to murder or to cause bodily injury which can cause death, with some others unknown to the complainant; and thereby committed an offence punishable under section 355 of the Penal Code.

Charge 02

In the same course of transaction above, the respondent caused injuries to one *Lokuhannadige Rupika Damayanthi* by throwing acid at her with such intention that had he by such acts caused the death of the said *Lokuhannadige Rupika Damayanthi*, he would have been guilty of murder, and that he by such an act caused hurt to the said *Lokuhannadige Rupika Damayanthi*; and that he has thereby committed an offence punishable under section 300 of the Penal Code.

2. The respondent has pleaded guilty to the charges in the indictment.

3. Upon pleading guilty to the charges, the respondent has been sentenced as follows:

    i. Charge 01 – Six months rigorous imprisonment suspended for ten years and also a fine of Rs. 5000.00 with a term of five months rigorous imprisonment in default.

    ii. Charge 02 – Eighteen months rigorous imprisonment suspended for ten years and a fine of Rs.10000.00 with a term of one year rigorous imprisonment in default.

    In addition, the respondent has also been directed to pay a sum of Rs. 1200000.00 (1.2 million) as compensation to PW01 with a term of five years rigorous imprisonment in default.

4. The complainant petitioner (hereinafter referred to as the "petitioner") aggrieved by the sentencing order, has preferred the instant revision application to this Court.

5. In preferring the instant application to this Court, the petitioner has sought to invoke the revisionary jurisdiction of this Court granted to it in terms of Article 138 of the Constitution.

6. The learned Deputy Solicitor General has referred to the incident described in the second charge. She has argued that the gravity of the respondent's actions demands a more stringent response from the judicial system. That it is not merely a matter of adhering to legal standards; the impact of the respondent's conduct extends beyond the confines of the courtroom.

7. It has been further argued that the incident in question has caused significant harm both to the victim and the broader community, highlighting the necessity for a penalty that reflects the severity of the offence.

8. That in assessing whether the sentence was adequate, the Court must consider several factors including the nature of the incident and the intent behind the respondent's actions that a lenient sentence risks sending a message that such behavior is tolerable, undermining the principle of justice and accountability.

9. The learned Counsel for the respondent has robustly defended the sentence imposed on the respondent, emphasizing the crucial principle of rehabilitation. The learned Counsel has argued that rehabilitation serves as a cornerstone of contemporary criminal justice philosophy, reflecting the belief that individuals, even after erring, possess the capacity for change and reintegration into society.

10. The learned Counsel has further argued that the disputed sentence is not merely punitive but also oriented towards fostering the respondent's personal development and reintegration into society.

That this line of thinking is grounded in the understanding that effective rehabilitation can reduce the rate of repetition thereby enhance public safety.

11. Also, the respondent's background, personal circumstances and potential for reform were referred to in detail, demonstrating that the imposed sentence is both fair and justified.

Details of the incident

12. PW01 has been a school teacher by profession. She and the respondent have met while attending teacher training college where they have developed a close relationship. After graduating, they have decided to formalize their bond by registering their marriage. However, it appears that the marriage was never consummated and just three months later, they have divorced.

13. Following this separation, PW01 has chosen to remarry. She has scheduled her next wedding for the end of September, 2015.

14. Three weeks prior to the scheduled date, PW01 has been allegedly abducted by the respondent and others. Thereafter, PW01 forced to consume a corrosive substance (acid). This has caused serious internal and external injuries to PW01.

15. During the argument, the learned Deputy Solicitor General has given a graphic description of the injuries caused to PW01 which have been supported by the contents in the medico-legal report prepared by *Dr. K. M. Mahasen*, *Consultant Judicial Medical Officer* upon examination of PW01 and marked as P3 in the non-summary inquiry proceedings in the *Magistrates Court in Hambanthota*.

16. When perusing the medico-legal report, it is apparent that injuries have been caused to the face, lips, tongue, several key structures of the gums, interior of the throat, and the upper body area of PW01 due to the corrosive substance. *Dr. Mahasen* in preparing the medico-legal report has opined as follows:

    1. *The frenulum tear identified inside the mouth was compatible due to force applied over mouth or directly over the frenulum.*

    2. *Burns over the tip of the tongue and inner aspect of the lips and absence of buccal mucosal burns suggest that the corrosive substance had not direct contact with the buccal mucosa. Considering the external findings, it's possible to touch the larynx with a small amount of corrosive substance causing laryngeal odema and erythema(reddening).*

    3. *Tiny speckled burns identified mainly peri-orally and over the face were compatible with those caused following sprinkling of the corrosive substance over the face.*

    4. *Uniformity of the superficial facial burn, clear margins and the nature of the drip marks can be due to pouring of the corrosive fluid over the face from the level of forehead.*

    5. *The relatively deep burns identified over the right shoulder and adjacent arm can be due to a prolong contact with the corrosive substance, possible with garment soaked with the corrosive fluid. The diffuse nature of the margins of the chest burn was compatible with those caused with garment soaked with corrosive*

fluid. The drip marks identified between the two breasts suggest that the patient had been on head and chest upright position at the time of contact with the fluid.

6. *The burn pattern identified over the right forearm was compatible with those caused following sprinkling of the corrosive substance.*

7. *Due to infection of the skin burns, difficulty in breathing as a result of laryngeal odema and aspiration of corrosive substance causing poor lung function would have caused septicaemia, as blood count and culture showed, which necessitated prolong antibiotic, antifungal and antiviral treatment.*

8. *According to the opinion given by the consultant eye surgeon, the recovery of the vision of both eyes to a satisfactory level is unlikely due to irreversibility of the burnt soft tissue of the eyes.*

9. *No evidence of sexual assault was identified.*

10. *Even if the injuries were categorized as "endangering life", unless she was treated the probability of causing death is very high.*

The law

17. In *Asan Mohammed Rizwan vs. Attorney General*, MC Pelamadulla Case No. 33332, HC Ratnapura Case No. HC 25/2010, Court of Appeal Revision No. CA [PHC] APN 141/2013 decided on March 25,

2015, Chitrasiri, J, has discussed a gamut of issues regarding sentencing, stating the following:

"Sentencing is an important aspect in the administration of criminal justice system. A sentence ranges from death penalty to the mere censure in the form of good behavior bond or probation. There are multiple considerations relevant to the determination of a sentence. The most important consideration is the seriousness of the crime. Jurisprudentially, this position is persuasive despite pragmatic difficulties associated with matching the harshness of the sanction to the severity of the crime…"

"Therefore, it is necessary for the judges to keep in mind the objectives of sentencing and also the sentencing guidelines, in order to arrive at the correct and appropriate decision. Objectives of sentencing include the following:

(i) To punish offenders to an extent and in a manner, which is just in all the circumstances;
(ii) To protect the community from offender;
(iii) To deter offenders or other persons from committing offences of the same or similar nature;
(iv) To establish conditions so that rehabilitation of offenders may be promoted or facilitated;
(v) To signify that the court and the community denounce the commission of such offences;
(vi) To maintain the required standards of societal expectations in making decisions;
(vii) To prevent overcrowding prisons also could be considered as one such objective particularly when it comes to developing countries such as ours."

"I will now advert to the other aspects that are necessary to consider before a sentence is determined. Those can be categorized as follows:

(a) The maximum and the minimum (if any) penalty prescribed for the offence;

(b) The nature and gravity/seriousness of the particular offence.

(c) The offender's culpability and degree of his/her responsibility for the offence;

(d) Mental state of the accused at the time the offence was committed;

(e) Evidence as to pre-arrangement for the commission of the offence;

(f) The impact of the offence on any victim and the injury, loss or damage caused as a result of the offence committed;

(g) Whether the offender pleaded guilty to the offence and if so, the stage in the proceedings at which the offender did so or the stage at which it was indicated;

(h) The conduct of the offender during the trial as an indication of remorse or the lack of remorse;

(i) Any action taken by the offender to make restitution of the injury, loss or damage arising from the offence, including his or her willingness to comply with any order for restitution that a court may consider.

(j) The offender's previous character, good or bad;

(k) Imprisonment should be used when no other sentence is adequate;

(l) Proportionality between the crime and the sentence;

(m) Possibility of reforming the offender;

(n) To ensure consistency in deciding sentences;

(o) *Presence of any aggravating or mitigating factors concerning the offender or any other circumstance relevant to the commission of the offence."*

18. At the same time, there are statutory provisions that govern the sentencing of a convicted individual. One such provision is section 303 of the Criminal Procedure Code Act No. 15 of 1979 which allows for the possibility of suspending a custodial sentence.

Matters that are to be considered prior to suspending a custodial sentence are stipulated as follows:

(a) *The maximum penalty prescribed for the offence in respect of which the sentence is imposed.*
(b) *The nature and gravity of the offence.*
(c) *The offender's culpability and degree of responsibility for the offence.*
(d) *The offender's previous character.*
(e) *Any injury, loss or damage resulting directly from the commission of the offence.*
(f) *The presence of any aggravating or mitigating factor concerning the offender.*
(g) *The need to punish the offender to an extent in a manner, which is just in all circumstances.*
(h) *The need to deter the offender or other persons from committing offences of the same or of a similar character,*
(i) *The need to manifest the denunciation by the Court of the type of conduct in which the offender was engaged in.*
(j) *The need to protect the victim or the community from the offender.*
(k) *The fact that the person accused of the offence pleaded guilty to the offence and such person is sincerely and truly repentant; or,*

(l) A combination of two or more of the above.

The instances where a custodial sentence cannot be suspended are also stipulated as follows,

(a) A mandatory minimum sentence of imprisonment has been prescribed by law for the offence in respect of which the sentence is imposed; or,
(b) The offender is serving, or is yet to serve, a term of imprisonment that has not been suspended; or,
(c) The offence was committed when the offender was subject to a probation order or a conditional release or discharge; or,
(d) The term of imprisonment imposed, or the aggregate terms of imprisonment where the offender is convicted for more than one offence in the same proceedings, exceeds two years.

The conclusion

19. The offences committed by the respondent are serious in nature. By forcing PW01 to consume a corrosive substance, the degree of culpability for the respondent in committing the offences is high. The respondent has had the intention to commit the offences and has preplanned the execution. PW01 has continued to receive treatment from time to time up until the beginning of the trial and thereafter, also suffered from severe impairment; hence, the impact of the offences on PW01 has been enormous.

20. Although the respondent has pleaded guilty, he has not indicated such a desire at the very first instance; he could have done so, *i.e.* at

the pre-trial hearing. The respondent has pleaded guilty after several adjournments. The matters set forth before the *High Court* in mitigation do not explicitly exhibit remorse for the incidents described in the charges.

21. This Court also believes that the aggravating circumstances outlined above significantly outweigh considerations discussed in the judgment of *Kumara vs. Attorney General* [2003] 1 SLR 139, which is referred to in the disputed sentencing order pronounced by the learned High Court Judge.

22. In light of the aforementioned considerations, this Court believes that the sentence imposed on the respondent is wholly inadequate. Therefore, this Court finds that this application merits intervention in the disputed sentencing order, through the discretionary remedy of revision.

23. Ends of justice will be met by substituting the substantial terms of imprisonment of six months and eighteen months imposed on the respondent in respect of the first and the second charges with a term of five years rigorous imprisonment in respect of the first charge and a term of twelve years rigorous imprisonment in respect of the second charge.

24. The fines imposed and the sum ordered to be paid as compensation together with the terms of imprisonment in default shall remain unchanged.

25. The substantial terms of imprisonment of five years and twelve years shall run concurrently. The terms of imprisonment shall commence from the date this order is read and explained to the respondent at the *High Court in Hambanthota*.

The revision application of the petitioner is accordingly allowed.

26. The Registrar of this Court is directed to send this order to the *High Court of Hambanthota* for compliance.

Judge of the Court of Appeal

B. SASI MAHENDRAN, J.

I agree

Judge of the Court of Appeal