

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

**In the matter of an Appeal in terms of
Section 331 of the Code of Criminal
Procedure Act No. 15 of 1979 read
with Article 138 (1) of the Constitution
of the Democratic Socialist Republic
of Sri Lanka**

Democratic Socialist Republic of Sri
Lanka

Complainant

**Court of Appeal Case No:
CA/HCC/0008-0009/2025**

Vs,

High Court of Embilipitiya
Case No. HCE 55/2020

1. Mahagodage Mahesh Rangana
2. Gayani Dilrukshi Fernando

Accused

And Now Between

1. Mahagodage Mahesh Rangana
2. Gayani Dilrukshi Fernando

Accused-Appellants

Vs,

Hon. Attorney General

Attorney General's Department,
Colombo 12.

Respondent

Before: **Amal Ranaraja, J.**
 Dr. Sumudu Premachandra, J.

Counsel: Anuja Premaratne, PC, instructed by Senal Mutugama for
 the Accused-Appellants

Ms. Maheshika Silva, DSG, for the Respondent

Argued on: 28.09.2026

Judgment on: 15.10.2026

JUDGMENT

Amal Ranaraja, J.

1. The appellants have been indicted in the High Court of *Embilipitiya* in Case No. HCE-55-2020. The charges in the indictment are as follows;

01. On or around the 21st of April, 2010, within the jurisdiction of this Court, in *Embilipitiya*, you, the first accused, have committed rape on one *Wengappuli Kankanamge Asitha Sandamali*, a minor under the age of 16; thereby, you have committed an offence punishable under Section 364 (2) read

with Section 364(2)(e) of the Penal Code of Sri Lanka as amended by the Penal Code (Amendment) Act No. 22 of 1995.

02. At the same time, place and course of action as the above first charge, you, the 2nd accused aided and abetted the 1st accused to commit said offence in the first charge, and as a result, the 1st accused has committed said offence; thereby, you have committed an offence punishable under Section 364 (2) read with Section 364(2)(e) and Section 102 of the Penal Code of Sri Lanka.

2. At the conclusion of the trial, the first appellant has been convicted of the first charge and the second appellant of the second charge. Thereafter, they have been sentenced as follows;

i. The first appellant to 12 years rigorous imprisonment together with the fine of Rs. 10,000.00 with a term of 12 months simple imprisonment, in default. He had also been directed to pay a sum of Rs. 100,000.00 to PW01 as compensation with a term of 12 simple imprisonment, in default.

ii. The second appellant to 2 years rigorous imprisonment, suspended for a term of 15 years. Also fined Rs. 10,000.00 and also directed to pay a sum of Rs. 100,000.00 as compensation to PW01 with a term of 12 months simple imprisonment, in default.

3. The appellants, being aggrieved by the conviction, disputed judgement, together with the sentencing order have preferred the instant appeal to this Court.

Case of the Prosecution

4. The appellants have been living a few doors down from PW01 and her family at the time in question. Due to their acquaintance, PW01 has often visited the appellants' residence. On the evening of the day in issue, PW01 has taken a piece of ripe jackfruit to the appellants as a gift for their consumption. When PW01 had arrived at the appellants' residence, the appellants have been present with their 3 year old child. At that time, the first appellant had allegedly inquired if PW01 would like to engage in intercrural sex'

“...මට කිව්වා ගලක් කපමු දැයි කියලා.”

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5. The second appellant has thereafter taken PW01 into a room, undressed her waist down and then left the room stating that she was going out to settle a bill. As the second appellant departed the first appellant had entered the room. The first appellant has made PW01 lie on a bed and subsequently engaged in penile-vaginal intercourse with PW01 against her will.

Case of the Appellants

6. The appellants have maintained that PW01 was angry with the second appellant because of the matters stated by them and consequently has falsely implicated them in the incidents outlined in the charges.
7. PW01 has testified regarding the incidents mentioned in the charges as follows;

“ප්‍ර: වැල කැල්ල දීලා තමන් ගෙදර ආවද නැත්නම් හිටිය ද?

උ: හිටියා

...

ප්‍ර: එහෙම ඉන්න කොට මොකක් හරි සිද්ධියක් වුනාද?

උ: ඔව්.

ප්‍ර: මොකක් ද මුලින්ම වුනේ?

උ: මම එහේ ගිහිල්ලා වැල කැල්ල දෙනකොට අක්කයි අයියයි හිටියේ. ඒ කට්ටියගේ තුන්වෙනි කාමරේ තියෙනවා. ඊට පස්සේ ගලක් කපමුද ඇහුවේ එදා තමයි.

ප්‍ර: කවුද ඇහුවේ එහෙම?

උ: ඇහුවේ මහේෂ් රංගන.

ප්‍ර: එහෙම ඇහුවම තමන් මොකක් ද කිව්වේ?

උ: මම ඇහුවා ඒ මොකක්ද කියලා.

ප්‍ර: ඊට පස්සේ?

උ: ගයනි දිල් රුක්ෂි කිව්වා කරලම බලමුකෝ කියලා.

ප්‍ර: ඊට පස්සේ කරලා පෙනවුවද?

උ: ඊට පස්සේ මාව එක්කන් ගියා එයාලයි තුන්වෙනි කාමරේට.

ප්‍ර: කවුද අරන් ගියේ?

උ: ගයනි දිල් රුක්ෂි.

ප්‍ර: එහෙම එක්කන් ගිහිල්ලා මොකක් හරි සිද්ධ වුනා ද?

උ: මගේ ඇදන් හිටිය යට කලිසම ගැලෙව්වා.

...

ප්‍ර: ඒ වේලාවේ තමන් මොනවද ඇදන් හිටියේ?

උ: මට ඇදන් හිටිය එක නම් මතක නැහැ

ප්‍ර: දළ වශයෙන් තමන් උඩට මොනව හරි ඇදන් හිටියද යටට මොනව හරි ඇදන් හිටියා මතක ද?

උ: ඔව්. ටි ෂර්ට් එකයි කලිසමයි.

ප්‍ර: ඇඳුම් වලට යටින් මොනව හරි ඇදන් හිටිය ද?

උ: ඔව්.

ප්‍ර: මොනවද ඇදන් හිටියේ?

උ: සුදු පාට කලිසමක්

ප්‍ර: කලිසමක් ද ඇදන් හිටියේ ගවුමක් ද ඇදන් හිටියේ?

උ: යටට සුදු පාට කලිසමක් ඇදන් හිටියේ.

ප්‍ර: ඒ කියන්නේ කලිසමට යටින් තව කලිසමක් ඇදන් හිටිය ද?

උ: ඔව්.

ප්‍ර: උඩට මොනව හරි යටට ඇදන් හිටිය ද?

උ: ටී ඡර්ටි එක විතරයි.

ප්‍ර: එහෙම කාමරේට ගෙනිව්වා කිව්වේ මහේෂ් රංගන නේද?

උ: ඔව්

ප්‍ර: ගෙනිහිල්ලා මොකක්ද කලේ?

උ: ගයනි දිල්ලුක්ෂි තමයි අඩගහගෙන ගියේ.

ප්‍ර: එතකොට මහේෂ් රංගන?

උ: එයන් ආවා පිටිපස්සෙන්

ප්‍ර: කාමරේට ගිහිල්ලා මොකක්ද කලේ?

උ: මගේ කලිසම ගැලෙව්වා

ප්‍ර: කවුද ගැලෙව්වේ?

උ: ගයනි දිල්ලුක්ෂි.

ප්‍ර: කලිසම විතරද ගැලෙව්වේ?

උ: යටට ඇදන් හිටිය කලිසම් දෙක ගැලෙව්වා.

ප්‍ර: තව මොනවාද ගැලෙව්වේ?

උ: එව්වරයි

ප්‍ර: ඒ ගැලෙව්වේ ගයනි?

උ: ඔව්.

...

ප්‍ර: එහෙම ගලවලා ගයනි මොනවද කලේ?

උ: ගයනි ඉන්න මම ගිහින් එනකම් ඉන්න කිව්වා.

ප්‍ර: කොහේ යනවා කියල ද ගියේ?

උ: වතුර බිලක් ගෙවන්න යනවා කියලා. ඊට එහා පැත්තේ ගෙදර තමයි වතුර බිල් ගෙවන්නේ.

...

ප්‍ර: දැන් එහෙම ගලවන් වේලාවේ මහේෂ් රංගන එතැන හිටිය ද?

උ: ඊට පස්සේ ආවා.

...

ප්‍ර: මහේෂ් ඒ වේලාවේ කාමරේට ආවද?

උ: ඔව්.

ප්‍ර: ඇවිල්ලා මොකක්ද කිව්වේ?

උ: කියපු දේ නම් මතක නැහැ.

ප්‍ර: භාන්සි කලා කිව්වේ?

උ: ඇදේ භාන්සි කලා ඉන්න යන්න එපා කියලා.

ප්‍ර: කවුද භාන්සි කලේ?

උ: මහේෂ් රංගන.

ප්‍ර: තමන් එලියට යන්න උත්සාහ කලාද?

උ: ඔව් යන්න දුන්නේ නැහැ මට ඉන්න ඉන්න කියලා.

...

ප්‍ර: එහෙම තමන්ව භාන්සි කරද්දි තමන්ගේ පල්ලෙහා කලිසම් දෙකම තිබ්බ ද එකයි ද තිබ්බේ?

උ: යට කලිසම බාගෙට මම ඇදලා තිබ්බේ.

ප්‍ර: ඒ කියන්නේ සම්පූර්ණ ඇදලා තිබ්බෙත් නැහැ?

උ: නැහැ. ඇද ගන්න කොට තමයි ආවේ.

ප්‍ර: අනික් කලිසම සම්පූර්ණයෙන්ම ගලවලා තිබ්බේ?

උ: ඔව්.

ප්‍ර: තමන් එහෙම භාන්සි කරවලා මොකක් හරි ඩෙයක් සිද්ධ වුනාද?

උ: ඔව්.

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ප්‍ර: එහෙම ඇග උඩට ආවට පස්සේ මහේෂ් තමන්ට මොනවා හරි දෙයක් කලාද?

උ: ඔව්.”

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ප්‍ර: මොකක්ද කරපු ක්‍රියාව?

උ: එයා එක්ක එකට හිටියා.

ප්‍ර: එකට හිටියා කියන්නේ කොහොමටත් එයා එකටනේ හිටියේ?

උ: ඔව්.

ප්‍ර: ඒක නෙවෙයි හරියට නිශ්චිත වශයෙන් තමන් කිවුවනේ එයාගේ පුරුෂ

ලිංගයෙන් තමන්ගේ ස්ත්‍රී ලිංගයට යමක් කලා කියලා?

උ: ඔව්.

ප්‍ර: මොකක්ද කලේ?

උ: මගේ ස්ත්‍රී ලිංගය ඇතුළට දැමීම.

ප්‍ර: මොකක්ද දැමීමේ?

උ: එයාගේ පුරුෂ ලිංගය.

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ප්‍ර: එහෙම දාලා තමුන්ගේ ස්ත්‍රී ලිංගයට මහේෂ් තමන්ගේ පුරුෂ ලිංගය දාලා මොකක් හරි ක්‍රියාවක් සිද්ධ කලාද?

උ: ඔව්.

ප්‍ර: මොකක්ද ක්‍රියාව?

උ: එයා එකෙන් මගේ එක ඇතුළට දදා ගැනුවා.

ප්‍ර: කොච්චර වෙලාවක් ඔය ක්‍රියාව සිද්ධ කලාද?

උ: විනාඩි 5ක් විතර.

ප්‍ර: ඊට පස්සේ ඔය ක්‍රියාව අවසාන වුනේ කොහොමද?

උ: එයාගෙ පුරුෂ ලිංගයෙන් දියර වගයක් ආවා.

ප්‍ර: ඒවා කොහෙටද ගියේ?

උ: එයා එක සරමෙන් පිහි දා ගත්තා. ඇඟ ඇතුළට දැමීමේ නැහැ.

ප්‍ර: ඇඟ ඇතුළට දැමීමේ නැහැ කියන එකෙන් ඔබ අදහස් කලේ කොහේ ඇතුළටද?

උ: ස්ත්‍රී ලිංගය ඇතුළට.

ප්‍ර: කාගේ ස්ත්‍රී ලිංගය ඇතුළටද?

උ: මගේ.

ප්‍ර: ඒ කියන්නෙ එයා ඒවා එලියට ගත්ත ද?

උ: ඔව්.

Vide pages 116 & 117 of the Brief

8. That is the second appellant brought PW01 into a room within the appellants' house and undressed her from the waist down. After the second appellant departed from the room, the first appellant then laid PW01 on a bed and engaged in penile-vaginal intercourse with her.
9. The appellants have contended that there are notable discrepancies in the testimony of PW01 both *per se* and *inter se*, also that these discrepancies relate to several key areas;

- i. That there is ambiguity regarding the incidents that preceded the first complaint made to the police, and the delay in making the same, which raises questions about her reliability.
- ii. That PW01's testimony and statements vary concerning the number of times similar events involving the appellants are claimed to have occurred. That this lack of consistency suggests uncertainty in PW01's account.
- iii. That the conflicting details surrounding the clothes worn by PW01 at the time of the alleged incidents, further complicates her testimony and impacts its credibility
- iv. That discrepancies also exist concerning the age at which PW01 entered into marriage, questioning the accuracy of her recollection and integrity.
- v. That in July 2010, an incident has occurred involving PW01 who has gone missing for several days. However, both PW01 and PW02 (her mother) have denied such an incident ever took place. In contrast, defence witness number 03, *Ritigala Kankanamge Gunapala*, Police Inspector of the *Embilipitiya* Police Station, has testified that a complaint regarding the disappearance was indeed filed with the police. Thus, such contradiction raises significant questions about the credibility of PW01 and PW02, as witnesses and puts the integrity of their statements into question.

10. In the realm of legal testimony, the concept of a belated complaint warrants rigorous scrutiny. This term refers to instances when a witness or a victim reports an incident or makes a formal complaint after a considerable lapse of time. However, if the reasons for the delay are adequately explained the validity of the testimony can often be

upheld irrespective of the time that has elapsed. The rationale behind permitting belated complaints lie in the recognition of human experience and the complexities of how individuals process traumatic events.

11. Also, in the legal framework the importance of the context cannot be overstated. Courts often evaluate the credibility of a belated complaint based on the comprehensibility of the reason provided for the delay. If such reasons elucidate a logical sequence of events that illuminate the witness's hesitation or fear, the explanation can effectively counteract any presumptions about the unreliability of a delayed complaint.

12. In the case of *Ajith Samarakoon Vs. The Republic* 2004 2 SLR 209, Jayasuriya J has held as follows;

“Just because the statement of a witness is belated the Court is not entitled to reject such testimony. In applying the test of spontaneity, the test of contemporaneity and the test of promptness the court ought to scrupulously proceed to exercise the reasons for the delay. If the reasons for the delay are justifiable and probable the trial judge is entitled to act on the evidence of a witness who had made a belated statement.”

ප්‍ර: තමන් ගෙදර යන වෙලාවේ මහේෂ් රංගන හරි ගයනි හරි මොනව හරි කිව්වද?

උ: ගයනි කිව්වා ගෙදර ගිහින් කාට්ටත් කියන්න එපා කියලා.

ප්‍ර: ඊට පස්සෙ තමන් ගෙදර ගියා?

උ: ඔව්.

ප්‍ර: ගෙදර ගිහිල්ලා ඉවරවෙලා තමන් මේ සම්බන්ධයෙන් කාට හරි කිව්ව ද?

උ: නැහැ.

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ප්‍ර: තමුන් ගෙදර ගියාම කවුද හිටියේ?

උ: අම්මා හිටියා.

ප්‍ර: වෙන කවුද හිටියේ?

උ: තාත්තා හිටියා.

ප්‍ර: නව?

උ: අයියයි අක්කයි හිටියා.

ප්‍ර: තමුන් මේ සිද්ධිය ඒ අයට කිව්වද?

උ: නැහැ.

ප්‍ර: ඇයි නොකිවුවේ?

උ: කියන්න එපා කියලා කිව්වා”

Vide pages 119 and 121 of the Brief.

13. PW01 has testified that she did not disclose the incidents involving the appellants immediately after they occurred due to a warning from the second appellant against doing so. This fear has influenced her decision and kept her from speaking out. However, as time went on the first appellant’s continuous stalking behaviour has escalated. This persistent intimidation ultimately has compelled PW01 to share details of the incidents, despite the initial warning she received.
14. Witness testimony plays a pivotal role in the adjudication of legal cases. The integrity and reliability of such testimony are fundamental to the fairness of the judicial process. One of the key factors that can undermine a witness’s credibility is the presence of discrepancies in his testimony. Discrepancies or inconsistencies within a witness’s testimony warrant careful scrutiny, particularly, when assessing their materiality.
15. Material discrepancies refer to inconsistencies that are significant enough to influence a case’s outcome. A material discrepancy is one that addresses crucial elements of the case, such as the nature of the events described. Non-material discrepancies pertain to minor details that do not substantially affect the case’s core issues. These might include differences in a witness’s recollection of peripheral information such as a minor detail about a conversation, or dress worn at a particular time.

16. Further, PW01 has testified after an extended period of 12 years, hence, the reliability of her recollection can be significantly compromised. One of the primary challenges of late testimony lies in the natural degradation of memory overtime. The details of events can fail, making it difficult to recall specific aspects with clarity. The passage of years can lead to forgetfulness or confusion surrounding minor, but potentially critical details.
17. Memories are also reconstructed rather than replayed verbatim. This reconstruction can introduce errors or distortions as individuals may unconsciously fuse different memories or alter details based on subsequent experiences or information encountered after the event in question. Witnesses might unconsciously incorporate information from external sources such as news reports or discussions with others which can lead to the introduction of inaccuracies. The emotional weight of recalling traumatic events can also affect memory. Witnesses may experience anxiety or distress when trying to recount their experiences, potentially leading to fragmented or inconsistent testimonies.
18. In the case of *D. Tikiribanda Vs. The Attorney-General C.A. Case No.64/2003*, decided on 06.10.2009, Ranjith Silva J has held as follows,

“Mostly the victims of sexual harassment prefer not to talk about the harrowing experience and would like to forget about the incident as soon as possible (withdrawal symptom). The offenders should not be allowed to capitalize or take mean advantage of these natural inherent weaknesses of small children.”

19. Further, in the case of AG Vs. *Daradadagamage Chandraratne*, CA/85/2013, decided on 25.05.2018, S. Thurairaja PC, J held as follows,

“Our Judges are not there to test the memory of the witness, they are expected to find the actual fact and the truth. Witnesses are human beings they are not memory machines nor robots to repeat the incident as it was. Further the natural behaviour of human beings is to forget incidents, especially sad memories. No one wants to re- visit painful moments and keep detailed memories with them...It is human nature.”

20. In the present case PW01 has consistently maintained her account of the incidents described in the charges. Consequently, the discrepancies pointed out by the appellants are peripheral and do not affect the essential elements of the case. Therefore, it is possible to rely on PW01’s testimony without dismissing its credibility.

21. The appellants further contend that the prosecution has failed to sufficiently discharge the burden of proof based on the fact that it neglected to present the testimony of certain witnesses, i.e., PW07, PW08, and PW09.

22. Section 134 of the Evidence Ordinance No. 14 of 1895 reads as follows;

“No particular number of witnesses shall in any case be required for the proof of any fact.”

23. The primary implication of Section 134 of the Evidence Ordinance is the adoption of the principle that “evidence must not be counted but weighed”. This has several key consequences in the Sri Lankan legal system. A court can convict an accused or determine a case solely on the uncorroborated evidence of a single witness provided that the judge finds that witness to be cogent, credible, trustworthy and impressive.

24. The law does not require corroboration of witness's testimony as an essential condition for a conviction. The trial Judge has the discretion to rely on the testimony if satisfied with its veracity after careful probing. The emphasis is shifted from a mere head count of witnesses to a careful judicial analysis and evaluation of the witness's demeanour, consistency, and overall trustworthiness of his testimony.

25. In *Sumanasena Vs. Attorney General* [1999] 3 SLR 137, Jayasuriya J. has held as follows:

"Evidence must not be counted but weighed and the evidence of a single solitary witness if cogent and impressive could be acted upon by a Court of law."

26. Further, misinformation may arise from various motivations, including fear, coercion, or sociocultural pressures. Often individuals find themselves in situations, where choice between truth and falsehood is not merely a matter of ethics but rather a response to immediate compelling factors. For example, an individual may feel an overwhelming compulsion to give inaccurate information to have a marriage registered, thereby, positioning personal interest above factual accuracy. Such motivations can stem from a deep-seated desire to preserve a relationship, or avert a negative consequence, illustrating how external factors can lead to deviation from objective truth.

27. Integrity typically encompasses adherence to moral and ethical principles, steadfastness to one's beliefs and commitment to truthfulness. However, the evolving nature of human behaviour illustrates that individuals are not static entities. Life events, psychological states, and circumstantial pressures can significantly alter an individual's capacity to provide truthful information. In instances where misinformation is disseminated under such circumstances, it can be argued that the action of such individual was

significantly influenced by an external compulsion. Also, the multifaceted nature of truth, integrity and context must be acknowledged in understanding the underlying factors that contribute to misinformation within a framework of compulsion, emphasizing that human behaviour is complicated, shaped by both internal and external forces.

28. PW01 has discontinued her education and has thereafter been staying at home without any clear purpose or regular activity. Her circumstances at the time appear to have left her feeling confined to a monotonous routine. When an opportunity to marry arose, PW01 seems to have regarded it as a possible way to change her circumstances and move beyond that routine. She, therefore, has decided to proceed with the marriage despite the risks involved. However, her age has become an obstacle to the marriage. In the circumstances PW01 has apparently stated that she was over 18 years of age. It does not by itself, establish that her statement was correct but, it offers an explanation for why she may have made it.

29. The concept of probability serves as a fundamental tool for understanding the likelihood of events occurring. When examining the probability of an individual engaging in a specific act, several factors come into play. This probability is inherently relative contingent upon various personal, social and contextual elements that shape an individual's decisions and behaviour. The probability of a person engaging in an act is also influenced by personal characteristics. These may include individual preferences, experiences, motivations and psychological traits. Therefore, the probability that the second appellant committed the act described in PW01's testimony cannot be ruled out.

30. In those circumstances I am not inclined to interfere with the conviction disputed judgement or the sentencing order and proceed to affirm the same

31. I dismiss the appeal but make no order regarding costs.

Appeal dismissed.

32. The Registrar of this Court is directed to send this Judgement to the High Court in *Embilipitiya* for compliance.

Judge of the Court of Appeal

Dr. Sumudu Premachandra, J.

I agree

Judge of the Court of Appeal