

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

In the matter of an Appeal under Section  
331 (1) of the Code of Criminal Procedure  
Act No.15 of 1979.

**CA Case No: CA-HCC 68/2024**

HC of Galle Case NO: HC-4468/2017

The Democratic Socialist Republic of Sri  
Lanka.

**Complainant**

**Vs**

Weerasingha Mudiyansele Upul  
Krishantha Kumara

**Accused**

**And Now in Between**

Weerasingha Mudiyansele Upul  
Krishantha Kumara

**Accused -Appellant**

**Vs**

The Attorney General

Attorney General's Department

Colombo 12.

**Complainant- Respondent**

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

**Counsel :** Tenny Fernando for the Accused- Appellant  
Dileepa Peiris, P.C, ASG, for the Respondent

**Written**

**Submissions:** 01.11.2024 (by the Accused-Appellant)

**On** 24.10.2025 (by the Respondent)

**Argued On:** 09.03.2026

**Judgment On:** 30.04.2026

## **JUDGEMENT**

**B. Sasi Mahendran, J.**

The Accused-Appellant (hereinafter referred to as 'the Appellant') was indicted before the High Court of Galle for having committed the offence of Statutory Rape on one minor, namely P. Madubashini, on or about 26.06.2005, punishable under Section 365 (2) (e) of the Penal Code as amended.

At the trial, the prosecution led evidence of five witnesses, and the appellant, in his defence, made a dock statement.

Upon conclusion of the trial, the Learned High Court Judge, by judgment dated 21.11.2023, found the Appellant guilty of the charge and imposed a sentence of 10 years of rigorous imprisonment and a fine of Rs. 5,000/- and 3 months of simple imprisonment in default. Further, compensation of Rs. 250,000/- was ordered to be paid to the victim; in default, a term of 6 months of simple imprisonment is imposed.

Being dissatisfied with both the conviction and the sentence imposed by the Learned High Court Judge, the Appellant preferred an appeal before this Court, articulating the following grounds in support of his challenge.

1. The Judge's failure to adequately analyze critical evidence and testimonies raises substantial questions about the Judicial assessment of the presented evidence in the course of the judicial process.
2. The failure to apply the correct legal standards and to recognize discrepancies in evidence caused the Judgment to be bad in Law and in conflict with the established Law.
3. The prosecution's failure to meet the beyond-reasonable doubt standard with sufficient evidence instead presented contradictory evidence and thereby the Judgment and the conviction is bad in Law.
4. Learned High Court Judge failed to apply judicial decision considering similar situations that critically angelized evidence in favor of the accused-appellants and thereby the conviction is bad in Law.

**The facts and circumstances of this case are as follows,**

PW 01, N.V.D. Madubhashini alias Kumari, the victim in this case, testified that she was 13 years old at the time of the alleged offence and that the appellant was a friend of her brother. On the day in question, she had gone to the boutique to purchase soap, and while on her way, she had encountered the appellant at

Sugatha Mama's house. At that time, the appellant asked her to convey a message to her brother, but when she stopped, the Appellant pressed a knife against her waist and ordered her to walk straight ahead and not to turn toward the boutique, but to continue walking.

Upon reaching a canal located in a jungle area, he directed her to stop near a large rock, and then he asked her to remove her clothes. When she refused, he drew the knife again and forcibly removed her leggings and skirt. The appellant then kissed her body again, and after removing his own clothes, he spread her legs and pressed his genital organ against her vagina. Although she screamed, the sound of the stream prevented anyone from hearing. She managed to push him away and observed a white fluid on her thighs. After dressing herself and before fleeing, she took the appellant's wallet, which was lying on a rock, intending to use it as proof. She then went to her house and narrated the incident to her mother, who thereafter took her to the police station. She asserted that there was no relationship between them and stated that she did consent to what happened on the alleged day.

During cross-examination, the witness denied the suggestion that she had called out to the appellant in front of Sugatha Uncle's house and also denied the defence claim regarding a letter allegedly given to the accused on that occasion. She further explained that although the appellant was not physically holding her, she did not attempt to run away because he had a knife positioned at her waist. In her police statement, she had indicated that the appellant moved a short distance away before removing his clothes and then approached her again, and she affirmed that her statement to the police was accurate. She denied the defence suggestion that she had taken the appellant's purse from his brother-in-law's house. The victim also denied ever visiting the appellant's residence or telling him that her stepfather had harassed her.

It should be noted that, when she gave her statement to the police on that day, she failed to produce the wallet.

During the testimony of PW 05, Dr. Janaki Warushahannadi, JMO, testified that she examined the victim on 26.06.2005 and obtained a brief history. According to the victim's history, while on her way to the boutique, the appellant called out to her, displayed a silver-coloured knife, and then led her into a nearby jungle, where he removed her clothes and engaged in sexual intercourse with her. The victim reported experiencing pain and noticing blood stains on her legs and underskirt. She further informed the JMO that she had been in a relationship with the appellant for approximately one week prior to the incident.

Upon examination, she observed that the victim had a fimbriated hymen, which is known for its elasticity and, therefore, may not sustain injuries upon initial penetration. Consequently, no fresh injuries were found on the hymenal tissue. Accordingly, the source of the bleeding mentioned in the victim's history could not be medically determined.

The witness stated that no external injuries or wounds were observed on the victim's body. She stated that penetration could not be ruled out, as it is medically possible for penetration to occur without causing visible injury when a fimbriated hymen is present. JMO stated that the absence of definite medical findings does not necessarily negate the possibility of sexual intercourse or abuse.

Upon the conclusion of the evidence of the prosecution, in a Dock statement, the Appellant has denied all these allegations.

In rape cases, our courts have consistently held that if the evidence is convincing, corroboration is not required.

I'm mindful of the case of *Gurcharan Singh V. State of Haryane* – AIR (1972) SC 2661. Also, it was observed that in this type of cases court normally looks for some corroboration. It was held thus:

*“As a rule of prudence, however, court normally looks for some corroboration of her testimony so as to testify its conscience that she is telling the truth and that the person accused of rape on her has not been falsely implicated.”*

The issue, therefore, is whether the victim's evidence is convincing. I observe that the JMO's testimony does not corroborate the evidence of the prosecutrix. The medical opinion given by the doctor, PW7, does not support the victim's claim that there were bloodstains.

Furthermore, questions arise as to why she could not hand over the wallet to the police on the very day she made her statement at the police station. Upon careful consideration, I find that the prosecution has failed to establish, beyond a reasonable doubt

I hold that the prosecutrix's version is not convincing. During the argument stage, the Additional Solicitor General, in alignment with the extreme traditions of the Attorney General's Department, agreed that the evidence of the prosecutrix could not be relied upon. I am mindful that, therefore, conviction cannot be sustained.

In the light of the foregoing, the conviction and the sentence imposed by the Learned High Court Judge are hereby set aside. The appellant is acquitted of the charge on which he was convicted.

Appeal Allowed.

**JUDGE OF THE COURT OF APPEAL**

**Amal Ranaraja, J**

**I AGREE**

**JUDGE OF THE COURT OF APPEAL**