

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

**In the matter of an application for
revision in terms of Article 138 of the
Constitution of the Democratic
Socialist Republic of Sri Lanka.**

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

Complainant

**Court of Appeal Case No:
CA/CPA 0059/2025**

High Court of Embilipitiya
Case No. HCE 52/2020

Vs,

Munasinghe Arachchige Shiran
Dhanushka Madhuranga

Accused

And Now Between

Munasinghe Arachchige Shiran
Dhanushka Madhuranga

(Presently held at the Angunakolapelessa
Prison)

Accused-Petitioner

Vs,

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

Complainant-Respondent

Before: **Amal Ranaraja, J.**

Dr. Sumudu Premachandra, J.

Counsel: Rajinda Kandagedara for the Accused-Petitioner

Riyaz Bary, D.S.G. for the State.

Argued on: 13.07.2026

Order on: 31.08.2026

Order

Amal Ranaraja. J,

1. This is an application filed by the accused petitioner (hereinafter referred to as the petitioner) invoking the Revisionary jurisdiction granted to this court in terms of Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka.
2. The petitioner has been named as the accused in the High Court of *Embilipitiya* in Case No. HCE 52/2020. The charge in the indictment is as follows;

01. On or around the 04th of November, 2016, within the jurisdiction of this Court, in *Suriyaara*, you have committed rape against one, *Kaluaarachchige Shiromika Madhushani*; thereby you have committed an offence, punishable under Section 364(1) of the Penal Code as amended by Penal Code (Amendment) Act No. 22 of 1995.
3. At the conclusion of the trial, the petitioner has been convicted of the charge and sentenced as follows
- i. A term of 20 years rigorous imprisonment and a fine of Rs. 10,000.00 with a term of 6 months simple imprisonment in default, imposed in respect of the charge
 - ii. The appellant has also been directed to pay a sum of Rs. 250,000.00 as compensation to PW01 with a term of 1 year rigorous imprisonment in default.

The disputed judgement and the sentencing order are dated September 12th, 2023.

4. The petitioner, though aggrieved by the conviction disputed judgement and the sentencing order, has not preferred an appeal to the appropriate forum. However, about twenty months after the disputed judgement and the sentencing order were pronounced, he has preferred the instant application in revision, dated June 9th, 2025, to this Court and prayed that the disputed judgement together with the sentencing order be set aside/varied.
5. The timing of a revision application is critical. Courts are generally reluctant to entertain applications that are filed after an excessive delay. The rationale behind this is twofold. Firstly, it ensures the efficiency of the judicial system. Secondly, it upholds a principle of

finality. If a petitioner has waited an unreasonable amount of time to seek revision, then a Court may reject the application on the ground of delay.

6. The petitioner has filed the present application about twenty months after the impugned judgement and the sentencing order were delivered. The petitioner has not provided any satisfactory, or cogent explanation for this prolonged delay. In the absence of a proper explanation, it may be reasonably inferred, that the petitioner has not been diligent in pursuing the application and has effectively been sleeping over his rights. Accordingly, the application is liable to be dismissed on the ground of inordinate and unexplained delay.
7. In the case of *Rajakumar v Hatton National Bank Ltd. (2007) 2 SLR 1*, Sisira de Abrew, J, has held,

“Revision being a discretionary remedy is not available to those who sleep over their rights, I further hold that it is not the function of the Court of Appeal, in the exercise of its revisionary jurisdiction to relieve parties of the consequences of their own folly, negligence and laches”

8. Further PW01, has contended that the appellant had intercourse with her against her will on the date specified in the charge. During her medical examination, when providing her history to *Dr. K.M. Mahasen*, a consultant Judicial Medical Officer, she has maintained this account and additionally, stated that the appellant ejaculated outside her body.
9. Upon examination, *Dr. Mahasen* has observed a reddish mucosal contusion measuring 0.5 x 0.3 cm located just to the left of the urethral opening. *Dr. Mahasen* has opined that these findings could be consistent with inter labial penetration.
10. Inter-labial penetration is legally and medically classified as rape. Legally, penetration does not require deep entry or damage to internal

tissues like the hymen to constitute rape. Any non-consensual penetration of the vulva, even if it is just between the labia (outer lips of the vagina) or against the vaginal opening, it is recognised by Courts and medical forensic guidelines as consummated rape.

11. In the case of *Perera Vs. The Attorney General (2012) 1 SLR 69*, Ranjith Silva J, has held as follows,

“In the book entitled **The Essentials of Forensic Medicine and Toxicology**, Dr. K.S. Narayana Reddy at page 308 states as follows:

“The slightest penetration of the penis within the vulva, such as the minimal passage of glands between the labia or with or without the emission of semen or rupture of hymen constitutes rape. There need not be a completed act of intercourse. Rape can be committed even when there is inability to produce a penile erection. Rape can occur without causing any injury and as such negative evidence does not exclude rape.”

...

It is my view that one should analyse the evidence in this case in the light of the above-mentioned expert medical opinion as the opinion expressed above is the opinion of almost all the text writers on forensic medicine and it has gained such notoriety that any quote can take judicial notice of the same.”

12. Hence, PW01 has maintained a consistent narrative and medical evidence is also consistent with an instance of inter-labial penetration.
13. Although the petitioner, has denied having sexual intercourse with PW01 in his dock statement, he has contradicted himself earlier during the cross examination of PW01 by suggesting that such intercourse did occur, and with consent.

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This demonstrates a clear inconsistency in the narrative of the petitioner.

14. The learned High Court Judge has drawn his attention to the above and has examined the evidence in their entirety, refusing to compartmentalize pieces of evidence in a vacuum. Having undertaken this holistic approach, the learned High Court Judge has applied the correct methodology and arrived at findings that are both cogent and sustainable.
15. Courts have long affirmed revisionary jurisdiction is a discretionary remedy invoked only in exceptional circumstances. The term “exceptional circumstances” in the case of revisionary jurisdiction has been interpreted to include the following;
 - i. An obvious/clear miscarriage of justice
 - ii. A plain error of law apparent on the face of the record
 - iii. A jurisdictional defect that renders the disputed judgement/order void.
16. Given the preceding discussion, the disputed judgement is legal. Consequently, the petitioner has not established an exceptional circumstance.
17. In those circumstances I dismiss the instant application but make no order on costs.

Application dismissed.

18. The Registrar of this Court is directed to send this Order to the High Court of *Embilipitiya* for reference.

Judge of the Court of Appeal

Dr. Sumudu Premachandra, J.

I agree

Judge of the Court of Appeal