



REPUBLIC OF KENYA



**Gibson v Republic (Revision Case 463 of 2022)
[2023] KEHC 3476 (KLR) (27 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3476 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
REVISION CASE 463 OF 2022**

HM NYAGA, J

APRIL 27, 2023

BETWEEN

NEMWEL MOCHUMA GIBSON APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant Nemwel Mochuma Gibson, was charged and convicted of the offence of Defilement contrary to section 8(1) as read with section 8(2) of the *Sexual Offences Act*, 2006.
2. The particulars of the offence were that on 24th June, 2020 at Olposmoru Sub- County of Naizok North in Narok County, intentionally caused his penis to penetrate the vagina of N.C.A a child aged 8 years.
3. On March 24, 2022 the Applicant was sentenced to Life Imprisonment in accordance with section 8(2) of the *Sexual Offences Act*.
4. The aforesaid section precisely states that A person who commits an offence of defilement with a child aged eleven years or less shall upon conviction be sentenced to imprisonment for life.
5. The file has been placed before this court for Revision in the ongoing decongestion exercise.
6. The purpose of the revisionary powers of the High Court is to correct manifest irregularities or illegalities and give appropriate directions. The High Court has supervisory powers over the subordinate courts and Tribunals.

Section 362 of the *Criminal Procedure Code* donates the power thus,

“The High Court may call for and examine the record of any Criminal proceedings before any Subordinate Court for the purpose of satisfying itself as to the correctness, legality or



propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court”.

Section 367 *Criminal Procedure Code* provides that

“when a case is revised by the High Court it shall certify its decision or order to the court by which the sentence or order so revised was recorded or passed and the court to which the decision of order is so certified shall thereupon make such orders as are conformable to the decision so certified, and, if necessary, the record shall be amended in accordance therewith”.

7. In this case, there are no grounds advanced to persuade this court to interfere with the sentence imposed by the Trial Court.
8. The sentence is lawful and the Applicant is therefore ordered to continue serving the same as imposed by the trial court.
9. Of course the applicant is at liberty to make a formal application/petition for re-sentencing or file an appeal against the conviction and sentence.

DATED, SIGNED & DELIVERED AT NAKURU THIS 27TH APRIL, 2023.

H.M. NYAGA

JUDGE

In the presence of:

C/A Jeniffer

Murunga for state

Applicant present

