Mutuku v Republic (Criminal Appeal E006 of 2023)
[2023] KEHC 21445 (KLR) (27 July 2023) (Judgment)

Neutral citation: [2023] KEHC 21445 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAKURU

CRIMINAL APPEAL E006 OF 2023

HM NYAGA, J

JULY 27, 2023

BETWEEN

TONNY KAMAU MUTUKU ..... APPELLANT

AND

REPUBLIC ..... RESPONDENT

(Being an appeal from the Judgment dated 13th January,2023 by Hon M. Kyalo, Senior Resident Magistrate at Nakuru Criminal S.0 No. 35 of 2019)

JUDGMENT

Introduction

1. Tonny Kamau Mutuku, the appellant was charged with the offence of attempted defilement contrary to section 9(1) as read with Section 9(2) of the *Sexual Offences Act* No.3 of 2006.The particulars were that the appellant on the 2nd day of January, 2022 within Nakuru County, he intentionally attempted to cause his penis to penetrate the Vagina of XY a child aged 16 years.

2. He also faced an alternative count of committing an indecent act with a child contrary to Section 11(1) of the *Sexual Offences Act* No. 3 of 2006. The particulars are that on the same date, place and time as above, the appellant intentionally and unlawfully touched the vagina of XY, a child aged 16 years, with his penis.

3. He denied the charges and the case proceeded to full hearing after which he was found guilty and was convicted. The trial magistrate then proceeded to sentence him to 10 years' imprisonment.

4. He was aggrieved by the judgment and filed this appeal raising the following grounds: -

    i. That the Learned Trial Magistrate erred in Law and in fact by imposing an extremely excessive and harsh sentence without considering the circumstances of the case.

    ii. That the Learned Trial Magistrate erred in Law and in fact by failing to appreciate that the prosecution case was not proved beyond any reasonable doubt.

    iii. That the Learned Trial Magistrate erred in Law and in fact by failing to note that his defence was plausible and unrebutted by the prosecution defence.

    iv. That the Learned Trial Magistrate erred in Law and in fact by relying on insufficient, inconsistent, uncorroborated, contradictory and downright false evidence.

    v. That the Learned Trial Magistrate erred in Law and in facts by relying on medical evidence which clearly indicated that the complainant had not been defiled.

    vi. That the Learned Trial Magistrate erred in Law and in fact by relying on the circumstantial evidence that did not link him with the said offence.

5. He thus prayed that the appeal be allowed, the conviction and sentence be set aside and he be set at liberty.

6. Before I delve into the submissions by the appellant and the state I will summarise the evidence tendered in the trial court.

Summary of Evidence for the prosecution before the Trial Court

7. At the trial, the prosecution called three witnesses. The first witness for the prosecution who testified was the complainant.

8. She testified that she was a four student at [Particulars Withheld] School and that she resided at a children's home known as [Particulars Withheld] Life. She knew the Appellant as he would be normally called by the said children's home to do repairs. She told court that on 2nd January, 2002, the Appellant had been called to repair some metals. She went outside and the Appellant called her saying he wanted to give some work to do. She did not respond. Her sister J then called her for lunch and she went and ate. After she was done eating, she went outside and met her other sister, Sonia and she went with her to greet the Appellant and left. Later she went to the toilet and the Appellant followed her there. When she came out of the toilet, she met the Appellant who asked her whether she had a phone. She told him she did not have it and the Appellant gave her his Safaricom line. On Sunday after church at around 12.30 pm, she requested for a phone from their guardian one Tom and she called the Appellant and requested him to meet her at Annex near State House. She reached there before the Appellant and so she requested a boda boda operator who was there for his phone and she called the Appellant. After 10 minutes the Appellant arrived in his motor cycle. She boarded that motor cycle and they left. On the way, she asked the Appellant where they were going and the Appellant responded that it would be a surprise. That the appellant stopped and parked his motorcycle behind a house and opened the gate and told her that was where he lived. They entered the house and the appellant showed her his bedroom then left to go buy milk and bread. She said on coming back, he went to the bedroom

and sat on his bed. She said the Appellant thereafter started touching her thighs and asked her if she had ever had sex and she told him no. She requested the Appellant to kiss her. He kissed her then stopped and requested her to lock the door properly. After doing that, the Appellant told her to remove her shoes and to join him in bed. She complied and the Appellant started kissing her. She said he tried to remove her skin tight but she pulled it up as she did not know what he wanted to do. She said the Appellant removed her skin tight and his trouser then wore a condom and indicated that he was not going to penetrate her but to just "play on top". She said the Appellant told her to spread her legs apart and he touched her vagina with his penis then he left the bedroom for a while and came back with his trouser on. She told the Appellant that she was thirsty. They left the house and went to a nearby shop where the Appellant bought her water and thereafter dropped her at her place. On Monday, her father enquired where she was on Sunday and she informed him, and she was directed to record a statement. She reported the incident to Central Police Station then went to Nairobi Women hospital where she was examined.

9. In cross examination, she stated that she was the one who called the Appellant and that they indeed met at Annex. She denied knowing one Jessy.

10. PW2 was Police Constable WK, attached to Nakuru Central Police station. He testified that on 4th January, 2022 a report was made by Mr. Gabriel from [Particulars Withheld] Children's Home at Milimani, regarding an attempted defilement committed by the Appellant. He stated that the alleged attempted defilement was committed at the Appellant friend's house and that since the Appellant was not successful, he returned the child to the children's home. He produced PW1's birth certificate as Exhibit No.1.

11. In cross examination, he testified that he is the one who arrested the accused at Shabab Roundabout on 7th January, 2022. He testified that the offense occurred in [Particulars Withheld] Estate at the accused friend's house. However, he confirmed that he did not carry out investigation to ascertain the owner of the said house. He did not also interrogate the Complainant's guardian on the issue. It was his testimony that he confiscated the Appellant's phone number but did not find any text messages.

12. PW3 was one Njoroge, a doctor attached to Nairobi Women Hospital. He testified that the complainant was brought to their facility on 4th January, 2022 alleging that a known person had attempted to defile her. On examination it was discovered that save for a small bruise outside the vagina, the entire genitalia were normal with intact hymen. He produced the P3, PRC report and GVRC form as prosecution Exhibits 2, 3 and 4 respectively.

13. In cross examination, he testified that the bruises on the skin were caused by a sharp object. He confirmed that the accused person was not examined.

Evidence for the Defence

14. At the close of the prosecution case the appellant was put on his defence. Section 211 of the *Criminal Procedure Code* was explained to the appellant herein and he indicated that he will give unsworn evidence.

15. DW1 in his unsworn statement, indicated that he was a welder and a boda boda operator. That on 1st January,2022 he received a call from Mr. Gabriel to go to [Particulars Withheld] Children's home to work. While working, two ladies approached him. He said one had a flask and a cup while the other one had a plate with nduma. They apprised him that Mr. Gabriel had sent them with the same. He took tea and the complainant asked for his phone to make a call and he told her he did not have credit but she could flash. He gave her the phone and she flashed the said person but he did not call back. That after some time, the said person called and he gave PW1 the phone and they talked then she returned

his phone. He said the phone rang again, he received and the guy told him he had not finished speaking with the complainant. He gave PW1 the phone and they talked for about 4 minutes. Thereafter the Complainant requested him to speak with the man. He did and he introduced himself as Jessy and that he would call him again. He said when he finished his work at around 12:00p.m, the said Jessy called him saying he was at Eveready. He went there and took him to Annex where he found the complainant and other ladies. Thereafter he dropped the Complainant and Jessy at Kiamunyi. At around 6:00 p.m. Jessy called and requested him to pick them at the same place. Upon reaching there, J paid him and he took the complainant to her home and left. On 7th January, 2022 he was arrested and charged with the instant offence.

16. In her judgement, the Learned Trial Magistrate found that the age of the complainant was proved and that she was a child aged 15 years. As regards penetration, it was the Court's finding that from both the evidence of the complainant & the doctor, and the medical examination documents, it was clear the Appellant attempted to defile the Complainant.

17. On identification, the trial court held that the Appellant was known to the Complainant as the appellant admitted having gone to the home to do repairs and interacted with the complainant and confirmed in his defence that he knew the complainant. The court further found the Appellant's defence an afterthought as he did not call the said Jessy as his witness and neither did he mention about him at the time of arrest and in his statement.

18. The Court therefore found that the prosecution had proved the charge beyond reasonable doubt and found the appellant guilty of the offence of attempted defilement contrary to section 9(1) (2) of the *Sexual Offences Act* No.3 of 2006.

Appellant's Submissions

19. It was submitted by the appellant that the trial court erred by relying on evidence of a single witness that was not corroborated. He faulted the prosecution for not calling The said Guardian Tom and the complainants four sisters. According to him their evidence could have shed light on what had transpired.

20. He also submitted that the evidence of the of the doctor did not support the complainant's case as he stated that injuries were inflicted by a sharp object.

21. The appellant also submitted that the learned magistrate erred by shifting the burden of proof to him.

22. In sum, he averred that the prosecution did not prove its case against him beyond reasonable doubt. He relied on the case of David Aketch Ochieng v R (2015) eKLR.

Respondent's Submissions

23. The respondent in opposing the appeal submitted that the charge against the appellant was proved beyond reasonable doubt. As regards the complainant's age, the respondent submitted that the birth certificate produced in evidence confirmed the complainant was 16 years old.

24. Regarding the offence, it was submitted that there was no need to prove actual penetration.

25. On identification, reliance was placed on the complainant's evidence. it was submitted that she went to the complainant's house and she positively identified the complainant.

26. On sentence, it was submitted that the law provides for a minimum sentence of 10 years' imprisonment.

Analysis and Determination

27. This being a first appeal, this Court is, as a matter of law, enjoined to analyse and re-evaluate afresh all the evidence adduced before the lower court and to draw own conclusions while bearing in mind that it neither saw nor heard any of the witnesses. See *Okeno v Republic* [1972] EA 32 and *Kiilu & Another v Republic* [2005]1 KLR 174.

28. I have given due consideration to the grounds of appeal, the evidence on record and the submissions by both parties as well as the authority cited by the appellant.

29. Having done so, I find that the key issues arising for determination are;

    a. Whether the failure to call other witnesses was fatal to the prosecution case.

    b. Whether the court erred by allegedly shifting the burden of proof to the accused.

    c. Whether the evidence presented before the trial court proved the ingredients of the offence of attempted defilement and if the guilt of the appellant was proved beyond any reasonable doubt.

30. The starting point would be look at what the law states in regards to the offence in question. Section 9(1) (2) of the *Sexual Offences Act* provides that;

    "(1) A person who attempts to commit an act which would cause penetration with a child is guilty of an offence termed attempted defilement.

    (2) A person who commits an offence of attempted defilement with a child is liable upon conviction to imprisonment for a term of not less than ten years"

31. An attempt to commit an offence is defined in Section 388 of the Penal Code as follows:

    "388

    (1) where a person intending to commit an offence begins to put his intentions into execution by means adopted to its fulfilment, and manifests his intention by some avert act but does not fulfill his intention to such an extent as to commit the offence, he is deemed to attempt to commit the offence.

    (2) it is immaterial except so far as regards punishment whether the offender does all that is necessary on his part for completing the commission of the offence or whether the complete is prevented by circumstances independent of his will or whether he desists of his own motion from further prosecution of his intention"

32. The prosecution in an offence of attempted defilement must therefore prove the other ingredients of the offence of defilement except penetration; it must from the age, of the complainant the positive identification of the accused, and then prove steps taken by the accused to execute the defilement which did not succeed. The key ingredients of the offence of defilement include the proof of the age of the complainant, proof of penetration and proof that the Appellant was the perpetrator of the offence.

33. Makau J in *David Aketch Ochieng v R*, [2015] eKLR held as follows:

> " .... For a successful prosecution of an offence of an attempted defilement, the prosecution must adduce sufficient evidence to the required standard to prove an attempted penetration. This may in my view include bruises, or lacerations from complainant's vagina, and/ or bruises or lacerations of culprit's genital organ and finding made discharge such as semen or spermatozoa outside the complainant's vagina or innerwear without there being penetration."

34. In the case of *Benson Musumbi v Republic* [2019] the court observed that: -

> " In order to prove an attempt to commit an offence, the prosecution must prove the mens rea which is the intention and the actus reus which constitute the overt act which is geared to the execution of the intention. The actus reus must be more than mere preparation to commit the act as there is a difference between mere preparation to commit an offence and attempting to commit an offence."

35. Bearing in mind the above provisions & precedents, I will now analyse the evidence on record to ascertain whether the essential ingredients of the offence preferred against the appellant were established to the required standard of proof.

Age of the Victim

36. The importance of proving the age of a victim in sexual offences is paramount considering that under the *Sexual Offences Act*, the prescribed sentence is determined by the age of the victim.

37. There are various ways which can be used to prove a victim's age as held in *Mwalengo Chichoro Mwajembe v Republic*, Criminal Appeal No. 24 of 2015 (UR) where the court stated as follows:

> " .....the question of proof of age has finally been settled by a recent decisions of this court to the effect that it can be proved by documentary evidence such as a birth certificate, baptism card or by oral evidence of the child if the child is sufficiently intelligent or the evidence of the parents or guardian or medical evidence, among other credible forms of proof" It has even been held in a long line of decisions from the High Court that age can also be proved by observation and common sense. (See *Denis Kinywa v Republic* Criminal Appeal No. 19 of 2014) and (*Omar Ucher v Republic* Criminal Appeal No. 11 of 2015). We doubt if the courts are possessed of requisite expertise to assess age by merely observing the victim since in a criminal trial the threshold is beyond any reasonable doubt. This form of proof is a direct influence by the decisions of the Court of Appeal of Uganda in *Francis Omuroni v Uganda* Criminal Appeal No. 2 of 2000. We think that what ought to be stressed is that whatever the nature of evidence presented in proof of the victim's age, it has to be credible and reliable..."

38. In this case, the birth certificate produced by PW4 proved that the victim was 16 years old at the time of the offence. According to the said birth certificate, the complainant was born on 15th June, 2005.

39. Having looked at the trial court record and the judgment, I find that the trial magistrate properly captured the above requirements of the law. There is no ground to fault the court in that respect.

Whether the prosecution adduced sufficient evidence to prove that the appellant attempted to defile the child victim as alleged.

40. PW1, after a brief voire dire examination gave sworn statement in which she testified that on the material day while the Appellant was carrying out repair works at her place of residence he gave her his number. She said on Sunday after church she called the Appellant using her guardian's phone and they met at annex and proceeded to the Appellant's house. Upon arriving at the Appellant's house, the appellant showed her his bedroom and they sat on his bed. She said the Appellant started touching her thighs then she requested him to kiss her. As they kissed the appellant told her to close the door and join her in bed. She complied. She said the appellant removed her skin tight and his trouser and wore a condom then told her that he would just "play on top" and to spread her legs. She tried to resist but the Appellant spread her legs and touched her vagina with his penis.

41. The Appellant on his part denied committing the offence. According to him, the complainant used her phone to call Jessy and upon receiving Jessy's phone call he went and picked him at Eveready in his motor cycle then took him to Annex where he met with the complainant. He said from there he ferried the complainant and Jessy to Kiamunyi and he left. At 6:00 p.m. upon receiving Jessy's phone call he went back to Kiamunyi and picked the Appellant and took her to her place and left.

42. The complainant was consistent in her testimony that it was the accused, and not any other person, who she met that day. She gave a detailed account of how the accused had approached her, while he was working at the children home. She was also able to give details of what transpired on the material day. She denied knowing the said Jessy.

43. The accused insisted that it was Jessy who was with her and that he merely took her to him.

44. The question is, why would the complainant point an accusing finger at the accused if he was not the one who was with her that day?

45. The trial magistrate found that the complainant was credible and believed her. She discounted the appellant's defence. Having looked at her testimony, I come to the same conclusion. I am guided by the provisions of the proviso to Section 124 of the *Evidence Act* that deals with the need for corroboration of the evidence of a child who is a victim of a sexual offence. It states that;

> " Provided that where in a criminal case involving a sexual offence the only evidence is that of the alleged victim of the offence, the court shall receive the evidence of the alleged victim and proceed to convict the accused person if, for reasons to be recorded in the proceedings, the court is satisfied that the alleged victim is telling the truth."

46. The appellant's position was that it was one Jessy who was with the complainant. In my view, the Appellant's testimony did not cast doubt on the prosecution's evidence. In holding that the appellant did not call his witness, the court cannot be said to have shifted the burden of proof to the appellant. The appellant was the only one who mentioned Jessy. It is thus not conceivable that he would then expect the state to look for someone they did not know.

47. The appellant submitted that the investigating officer confirmed that he did not ascertain whether the alleged house in which the offence occurred belonged to the Appellant. To me that was not relevant. The offence did not necessarily have to be committed in the appellant's house.

48. The appellant submitted that said officer did not interrogate the guardian in regards to this incident yet the Complainant had stated that she had used his phone to reach the Appellant. That there was no evidence of phone conversations between the Appellant and the Complainant.

49. While this may be true, I think that the phone records would not have been of importance. There is a possibility that even if they were availed the same would not have shown with certainty that the number belonged to the appellant. It is common knowledge that someone can use a line that is not registered in his name.

50. The appellant also submitted that no one saw the complainant with the Appellant on the material date. I agree. The complainant did not state that anyone else met the appellant that day. According to the complainant her friend merely told her to go and enjoy her date but never met the appellant. That in itself did adversely affect the evidence against him.

51. However, there is no doubt that apart from the phone conversation the appellant and the complainant were in contact directly, without the need for the phone.

52. The appellant further submitted that the doctor who examined the complainant stated that the injuries sustained by the Complainant were caused by a sharp object. That this court should take judicial notice that Penis is not a sharp object.

53. In my view, looking at the complainant's evidence, she stated that the appellant tried to cause his penis to enter into her vagina, but did not manage to do so. The injury had nothing to do with the incident and the complainant did not link that injury to the appellant. This is a case of an attempted defilement and so the injury was not really material to the case.

54. The appellant raised the issue of the fact that the prosecution did not avail other witnesses. To me the prosecution only needed to avail what they perceived to be relevant witnesses.

55. Section 143 of the *Evidence Act* provides that no specific number of witnesses are needed to prove a fact unless the law provides otherwise.

56. In *Julius Kalewa Mutunga v Republic* (2006) eKLR the Court of Appeal held as follows:-

> "...As a general principle of law, whether a witness should be called by the prosecution is a matter within their discretion and an appeal court will not interfere with the exercise of that discretion unless, for example, it is shown that the prosecution was influenced by some oblique motive"

57. It is indisputable that the Appellant was a person known to the Complainant. The complainant therefore was expected to positively identify him. To me she did so beyond reasonable doubt and that is why he was arrested.

58. Accordingly, I find that the alleged gaps in the prosecution case do not go to the root of the case, which is the identification of the appellant.

59. In the upshot, I am satisfied that the conviction was sound and proper.

60. I find that the appeal on conviction lacks merit and is hereby dismissed. The conviction is upheld.

61. On the sentence meted by the trial court, I not that the appellant did not submit on the same. The Prosecution submitted that the same was proper in view of the provisions of section 9 of the *Sexual Offences Act*. I think that it is only that I address the issue as well.

62. Now, there has been a lot of recent litigation over the so called mandatory sentences and those that provide for a minimum sentence.

63. The issue of mandatory sentences was addressed in *Francis Karioko Muruatetu & others v Republic* (2017) eKLR (Muruatetu 1) where the Supreme Court held that the mandatory death sentence prescribed for the offence of Murder by section 204 of the *Penal Code* was unconstitutional. The Court took the view that:

> " Section 204 of the Penal Code deprives the Court of the use of judicial discretion in a matter of life and death. Such law can only be regarded as harsh, unjust and unfair. The mandatory nature deprives that the Courts of their legitimate jurisdiction to exercise discretion not to impose the death sentence in an appropriate case. Where a Court listens to mitigating circumstances but has, nevertheless, to impose a set sentence, the sentence imposed fails to conform to the tenets of fair trial that accrue to the accused persons under the Article 25 of *the Constitution*; an absolute right."

64. Subsequent to the above decision, a lot of emerging jurisprudence has come to the fore on the question of these so called mandatory sentences in other offences other than murder.

65. For instance, in Jared Koita Injiri v Republic [2019] eKLR the appellant was sentenced to life imprisonment on the basis of the mandatory sentence stipulated by section 8 (1) (2) of the *Sexual Offences Act*. The Court of Appeal opined that

> " if the reasoning in the Supreme Court case was applied to this provision, it too should be considered unconstitutional on the same basis."
>
> The court further stated:
>
> > " The appellant was provided an opportunity to mitigate in the trial court where it was stated that he was a first offender. He pleaded for leniency. However, it cannot be overlooked that the appellant committed a heinous crime, and occasioned severe trauma and suffering to a young girl. His actions have demonstrated that around him, young and vulnerable children, like the complainant could be in jeopardy.
> >
> > Needless to say, pursuant to the Supreme Court decision in *Francis Karioko Muruatetu & Another v Republic* (supra), we would set aside the sentence for life imposed and substitute it therefore with a sentence of 30 years from the date of sentence by the trial court."

66. The Court of Appeal in Dismas Wafula Kilwake v R [2018] eKLR, held that the mandatory minimum sentence under Section 8 of the *Sexual Offences Act* is unconstitutional as it denies the court discretion in sentencing.

67. Odunga J(as he then was), in *Philip Mueke Maingi & 5 others v Director of Public Prosecutions & another* (Petition E017 of 2021) [2022] KEHC 13118 (KLR) held as follows;

> " Taking cue from the decision in Francis Karioko Muruatetu directed that those who were convicted of sexual offences and whose sentences were passed on the basis that the trial Courts had no discretion but to impose the said mandatory minimum sentence are at liberty to petition the High Court for orders of resentencing in appropriate cases."

68. In the case of F*appyton Mutuku Ngui v Republic* [2019] eKLR the court directed the trial court to rehear the Applicant's sentence on grounds that following the decision in the Muruatetu case several

decisions have been made by various courts wherein minimum sentences imposed have been tampered with as a result.

69. The court in *Hashon Bundi Gitonga v Republic* [2020] eKLR held that minimum sentence portends real possibility of a harsher or excessive sentence being imposed on an individual who would after mitigation be entitled to a lesser sentence. That therein lays prejudice.

70. In *Samuel Achieng Alego v Republic* [2018] eKLR the court stated as follows;

> "It is therefore clear that section 8(2) on the face of it prescribes a mandatory sentence as opposed to a maximum one In my view under the current constitutional dispensation, mandatory minimum sentences ought to be looked at in light of Article 27 of the *Constitution* as read with clause 7 of the Transitional and Consequential Provisions which provide as follows: All law in force immediately before the effective date continues in force and shall be construed with the alterations, adaptations, qualifications and exceptions necessary to bring it into conformity with this Constitution.
>
> Such sentences, in my view, do not permit the Court to consider the peculiar circumstances of the case in order to arrive at an appropriate sentence informed by those circumstances as the Court is deprived of the discretion to consider whether a lesser punishment would be more appropriate in the circumstances. In those circumstances, it is my view that such provisions do not meet the constitutional dictates..."

71. From the foregoing, it is indeed correct to state that by prescribing mandatory sentences, the *Sexual Offences Act* takes away a court's discretion to impose a sentence it considers appropriate in any given circumstances.

72. In the trial, the learned magistrate appears to have considered the issue and found no good grounds to mete out a sentence lower than the one prescribed by the law.

73. Sentencing is at the discretion of the trial court and as an appellant court, it important to restrain itself from interfering with a sentence meted by the court that conducted the trial and had the benefit of hearing the witnesses and the mitigation. This court can only do so if it is to find that the trial court proceeded on the wrong principles.

74. The Court of Appeal in *Bernard Kimani Gacheru v Republic* [2002] eKLR stated that:

> "It is now settled law, following several authorities by this Court and by the High Court, that sentence is a matter that rests in the discretion of the trial court. Similarly, sentence must depend on the facts of each case. On appeal, the appellate court will not easily interfere with sentence unless, that sentence is manifestly excessive in the circumstances of the case, or that the trial court overlooked some material factor, or took into account some wrong material, or acted on a wrong principle. Even if, the Appellate Court feels that the sentence is heavy and that the Appellate Court might itself not have passed that sentence, these alone are not sufficient grounds for interfering with the discretion of the trial court on sentence unless, anyone of the matters already states is shown to exist."

75. In this case I don't see any ground to hold that the court proceeded on the wrong principles. It took account of the circumstances. The appellant knew that the complainant was being sheltered in the home where he used to go and work. This was a vulnerable child and he took advantage of her. I am thus reluctant to disturb the sentence.

76. In conclusion I find that the appeal lacks merit and is dismissed.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 27TH DAY OF JULY, 2023.

HESTON M. NYAGA

JUDGE

In the presence of;

C/A Jeniffer

Ms Murunga for State

Appellant present