



REPUBLIC OF KENYA



**Samuel v Republic (Criminal Appeal E010 of 2020)  
[2022] KEHC 153 (KLR) (21 February 2022) (Judgment)**

Neutral citation: [2022] KEHC 153 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MACHAKOS  
CRIMINAL APPEAL E010 OF 2020  
MW MUIGAI, J  
FEBRUARY 21, 2022**

**BETWEEN**

**SIMON NDIINGO SAMUEL ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an appeal against the judgment and conviction by Hon. E. W. Wambugu Senior Resident Magistrate at Kithimani, in Criminal Case No. 44 of 2017 on 1st October, 2020)*

**JUDGMENT**

1. **BACKGROUND**

The Appellant was charged with the offence of Defilement contrary to Section 8(1) (3) of the [Sexual Offences Act](#) No.3 of 2006 the particulars being that on the 7/10/2017 at around 11.00 hours in Masinga sub-county within Machakos Court, intentionally caused his penis to penetrate the vagina of ANM a child aged 14 years.

2. The Police also preferred an alternative charge of Committing an Indecent Act with a Child contrary to Section 11(1) of the [Sexual Offences Act](#) No.3 of 2006 the particulars of the offence are on 7/10/2017 in Masinga sub-county within Machakos Court, intentionally touched the vagina of ANM a child aged 14 years.

3. The Appellant pleaded not guilty on both counts, the trial was conducted. In his judgement, the learned Trial Magistrate found the Appellant guilty of the offence of Defilement and accordingly convicted him as required under Section 215 of the [Criminal Procedure Code](#) (CPC).

**EVIDENCE**

4. The prosecution called a total of 5 witnesses in support of its case.



5. ANM (PW.1) stated that she is 15 years old and is a student at [Particulars Withheld] Primary school in Class 7. That on 7/10/2017 at 11am her mother who was sick told her to go with other children to fetch water. Simon [the Appellant] told her and the 4 younger children that the river was his as it was on his land and asked the other children what they wanted. He cut a branch from the tree and chased away those children.
6. The Appellant said he wanted her to remain behind to give her something, she said she did not want anything. She went to fetch water as she was putting the jerrycan on her back, he held her hands and said he wanted to show her something and pulled her into a thicket.
7. The Complainant fell down while facing up and was bruised by thorns. When she tried to get up the Appellant removed her clothes, covered her mouth and strangled her as she tried to scream, he used her mother's lessa which he tore and covered her mouth.
8. The Complainant told him to release her but he went ahead and removed his clothes and lay on top of her and inserted his penis in her vagina as he pressed her neck at the same time. When she tried to scream he stuffed the lessa in her mouth and pressed her neck.
9. After the Appellant left, she went home, she was bleeding when she was walking home and was seen by people and when she got home she reported to her mother. Her parents took her to Masinga and they were referred to Kithimani.
10. JMN (PW.2) stated that PW.1 is his daughter. He stated that on the particular date he was working elsewhere and that the complainant went home while crying and told her mother that the Accused got hold of his daughter. They later went and reported to accused's father. They later on reported the matter at the A.P Camp, they were given a letter to Ndithini Police Patrol Base who gave a letter and accused was later arrested.
11. They went to hospital at Masinga A P3 form was filled and treatment card issued and also the lab request form was filled.
12. AM (PW.3) stated that PW.1 is her daughter and she produced her health card A was born on 15/3/2002. On the particular date 7/10/2017 she had sent her to fetch water and that she came back home with water, she was quiet and did not look well, she was walking with her legs apart and she had blood in her private parts. When she asked why she walked that way, she said Simon had dragged into the bush and defiled her and strangled her and informed her of the incident. They took her to Masinga hospital where the complainant was examined.
13. No. xxxxx PC Alfred Kibet Kipngetch (PW4) stated that he was the investigating officer, from Masinga Police Station, Kikumani Police Post Base. On 7/10/2017 a report was made by ANM who was accompanied by her mother (PW.3) and he recorded the report. The complainant was taken to Masinga level 3 Hospital for examination and he later recorded the complainant's statement. The Appellant was arrested by the AP officers and he then charged the Appellant.
14. Edwin Mutembei (PW.5) a Clinical Officer at Machakos Level 5 Hospital told the court he was previously worked at Masinga Hospital. He stated he was/is Clinical Officer registered Number xxx. That on 9/10/2017 a patient by the name ANM -14 years old was brought to the facility with a history of being defiled by a person known to her on 7/10/2017. She sent the patient for various tests that were negative but her urine test had pus cells and red blood cells. She was in sober and fair condition. Her left elbow was tender. On examination of her private parts, he noted that the hymen was broken but there were no injuries and she had her menses and later filled the P.3 Form and produced it in Court as P. Exhibit 1(a), treatment note as Exhibit 1(b) and Lab Results as P. exhibit 1(c).



15. On 10/12/2019, The Appellant applied to Court for the Investigating Officer to be recalled as he had questions to ask him. The Trial Court granted his request and Summons were issued for the Investigating Officer to come back to Court and testify.
16. On 3/3/2020, the Investigating Officer was in Court and he produced the Complainant's health card for ANM at the Station she said she is A and A was short for A She was born on 15<sup>th</sup> March 2003.
17. On cross examination by the Accused/Appellant, the Investigation Officer said that he handed the file to another Officer after he was transferred. He was the one that the Complainant found at the Station. They did not bring any exhibit. He was not informed of any toilet that was burnt. In re-examination he stated that the Complainant's mother gave him a copy of the clinical card and she left with the original. He relied on the health card and P3 Form as exhibits.
18. The Trial Court gave a Ruling on a case to answer on 29/05/2020 whereby the Appellant was placed on his defence pursuant to Section 211 CPC.
19. The Appellant opted to make a sworn statement and would call 2 witnesses. He told the Court that is a casual labourer. He denied committing the offence. He further stated that the investigating officer did not conduct investigations, never visited the scene. He said that their evidence was not truthful.
20. He had indicated that he would call 2 witnesses but later abandoned the idea citing hardship in raising transport back to court and closed his case.
21. The Court record shows that the learned Trial Magistrate considered the evidence adduced by the Prosecution witnesses and the defense and on 1<sup>st</sup> October, 2020 convicted the Accused for the offence of defilement contrary to Section 8 (1) & 8 (3) of *Sexual Offences Act*. The Trial Court sought the Victim Impact Statement Report and considered as well the Appellant's mitigation and sentenced the Appellant to serve twenty (20) years imprisonment.

#### **MEMORANDUM OF APPEAL**

22. The Appellant aggrieved by the conviction and sentence filed the grounds of appeal being that:-
  - a. THAT the learned Trial Magistrate erred in both law and facts by convicting him despite inconsistent, insufficient as well as contradictory evidence.
  - b. THAT the credibility of the complainant's evidence was questionable and doubtful.
  - c. THAT the learned trial magistrate erred in both law and facts by not considering his sworn defence.

#### **NOTICE OF MOTION**

23. The Appellant filed undated Notice of Motion on 2<sup>nd</sup> November, 2020 under certificate of urgency seeking the following prayers:-
  - i. That the appeal is against both conviction and sentence
  - ii. That he be allowed to appeal OUT OF TIME as a pauper.

#### **SUBMISSIONS:**

24. The Appellant filed his undated written submissions on 3<sup>rd</sup> November, 2021.



25. In summary, the Appellant submitted that the Trial Court erred in both law and in fact by failing to ensure that the trial process was started and concluded within a reasonable time period as envisaged under Article 50(2) (e) of *the Constitution*; that the ingredients of the offence were not established against the Appellant; that there were material contradictions and inconsistencies in the evidence which not only brought out the prosecution witnesses as incredible and worthless of belief but also impugned the whole prosecution's case; that the critical witnesses and essential exhibits need to substantiate the prosecution case were not availed; that the Magistrate failed to freshly exhaustively, comprehensively and deliberately analyze, weigh and consider the cogent defence case which not only exhibited evidence of bad blood between the accused person on and the rest of the prosecution witnesses but also exonerated the appellant from any wrong doing. The Appellant cited *Christopher Njeru Gitinji – vs- Republic* [2020] eKLR and *Musembi Makau –vs- Republic* [2019] eKLR in support of his case

Where the Court dwelt on the importance of timely issuance of statements; [it] is immediately upon entering plea of guilty to afford him sufficient time to scrutinize the evidence and to prepare his defense, this duty abides during Pre-Trial period and during trial.

26. The Appellant further stated that the Trial Court greatly erred in rejecting his defence in which he alleged that the source of the alleged charges was due to a grudge he had with the complainant's over drawing of water in his farm which according to him, he had prohibited them. The Court ought to have considered this defence in light of the whole circumstances of the case but instead shifted the burden on the accused person by his failure to bring concrete evidence to show that on the day of the alleged offence he was not at the scene and that he did not have any burden in law to explain this could have as well have kept quiet. The onus was on the prosecution to prove its case who is already captioned it did not. The following cases were cited *Christopher Njeru Gitinji – vs- Republic* [2020] eKLR and *Musembi Makau –vs- Republic* [2019] eKLR in support of his case.

27. **PENETRATION**

On the issue of penetration the case of *Benson Mbugua Njoroge Vs Republic* [2021] eKLR where the Court held that:

“..... Specifically, the medical report relied on by the prosecution does not support its case. It is apparent that it does not prove that the Appellant defiled the Complainant on the material day stated in the charge sheet. Had the Appellant indeed defiled the Complainant on the material day, then the hymen would have been indicated as freshly broken.

28. **POSITIVE IDENTIFICATION**

On the issue of positive identification the case of *Patrick Owino Okumu Vs Republic* [2016] eKLR where the court opined as follows:-

“Further, C was an important witness who should have been called to give testimony in the case. Her absence from the prosecution's list of witnesses rendered the complainant's testimony less believable. It was possible that the complainant was sexually assaulted by someone else whom she was afraid to disclose. She could also have implicated the Appellant to explain away her truancy and failure to attend school.”

29. **EXPLICIT CONTRADICTIONS**



On the issue of explicit contradiction the Appellant cited the case of *John Mutua Musyoki Vs Republic* [2017] eKLR where the Court of Appeal held as follows:-

“Clearly the High Court failed to evaluate the veracity of all these contradictions and discrepancies. To our mind these contradictions and inconsistencies are not minor as submitted by the respondent. They were critical and go to the root of the prosecution case and whether the complainant was a credible and truthful witness. If the complainant could lie as to what led her to report to school late, what else did she lie about?”

#### **RESPONDENTS SUBMISSIONS:**

30. On the Respondent’s part, Prosecution Counsel Felister Njeru opposed this appeal on the basis that they have no merit as the prosecution proved the three main ingredients of proving a defilement case as follows:

a. **Age of the complainant**

The complainant told the court she is 15 years old. The same was proved by production of the child health card confirming her date of birth as 15/03/2003 and the offence being committed on 7<sup>th</sup> October, 2017 the complaint was aged 14 years then.

See *Hillary Nyongesa Vs Republic* Criminal Appeal No 123 of 2009 where the Court held as follows;

“Age is such a critical aspect in Sexual Offences that it has to be conclusively proved. Anything else is not good at all. It will not suffice. And this becomes more important because punishment (sentence) under the *Sexual Offences Act* is determined by the age of the victim.”

b. **Proof of penetration**

The complainant testified that the appellant dragged her into the bush, she fell down facing up and the appellant removed her clothes, he covered her mouth with her mother’s less and strangled her when she attempted to scream and then removed his clothes, inserted his penis in her vagina and that the medical officer who examined her stated that her hymen was absent.

c. **Whether appellant was properly identified**

The complainant stated that she went to fetch water at 11.00 a.m. when she met the accused and two had a conversation before he defiled her in the bush. This was in broad daylight and hence visibility was clear for proper identification and that the appellant was well known and there was no possibility of mistaken identity.

31. It was submitted that the Court observed that the appellant denied the offence alleging he was far away that day with a motor vehicle but however did not avail concrete evidence to prove he was not at the scene to support his defence and hence did not displace the prosecution case.

#### **DETERMINATION**

32. This Court was approached on appeal by the Appellant to consider the grounds of Appeal outlined in the Memorandum of Appeal.



33. The Court has considered pleadings and submissions by both parties' Appellant and Respondent. The issues to be considered/analyzed are;
- a. Court's jurisdiction on Appeal
  - b. Delay of hearing of Court Proceedings and availability of Copies of Statements
  - c. Proof of Penetration
  - d. Identification of Appellant
  - e. Contradictions and Inconsistencies.
  - f. Sentence
- a. **Court's jurisdiction on Appeal**
34. The right to appeal to the High Court is provided by Section 347 of the Criminal Procedure Code. The timelines for filing the appeal in this instance were considered on the application to allow appeal out of time which was granted by the Court.
35. This Court being the 1<sup>st</sup> Appellate Court is required by law to re-evaluate and analyze afresh the evidence presented during the Trial proceedings and reach an independent decision on whether or not to uphold the decision of the Trial Court. The Court is conscious as it carries out this exercise that it did not have the benefit of seeing or hearing the witnesses that testified before the Trial Court and hence should provide some allowance in the circumstances.
36. The case of *Okeno vs Republic* [1972] EA 32 is instructive on this point as follows;
- “An appellant of a first appeal is entitled to expect the evidence as a whole to be submitted to a fresh and exhaustive examination (Pandya -vs- R [1957], EA 336), and to the appellant court's own decision on the evidence. The first appellate court must itself weigh conflicting evidence and draw its own conclusions (Shantilal M. Ruwala – vs- R [1975], EA 570. It is not the function of the first appellate court merely to scrutinize the evidence to see if there was some evidence to support the lower court's findings and conclusions; it must make its own finding and draw its on conclusions. Only then can it decide whether the magistrate's findings should be supported.”
37. See also *M'Riungu vs Republic* [1983] eKLR 455 the Court held;
- “Where a right of appeal is confined to questions of law, the appellate court has loyalty to accept the findings of fact of the lower court(s) and resist the temptation to treat findings of fact as holdings of law or mixed findings of fact and law and it should not interfere with the decisions of the trial or first appellate court unless it is apparent that on the evidence, no reasonable tribunal could have reached that conclusion, which would be the same as holding that the decision is bad in law (Martin v. Glyneed Distributors Limited (T/A MBS Fastenings – The Times of March 30, 1983)”
- b. **Delay of hearing of Court Proceedings and availability of Copies of Statements**
38. The Appellant submitted that the Trial Court erred in both law and in fact by failing to ensure that the trial process was started and concluded within a reasonable time period as envisaged under Article 50(2) (e) of *the Constitution*;



Every accused person has the right to a fair trial, which includes the right—;

- (e) to have the trial begin and conclude without unreasonable delay;
- (j) to be informed in advance of the evidence the prosecution intends to rely on, and to have reasonable access to that evidence;

39. The Appellant deposed that he took plea on 16/10/2017 and the hearing took months to commence at the instance of the Prosecution who did not supply the Accused with Witness Statements and non-bonding of witnesses to attend Court.

40. This Court perused the Original Trial Court record and observed thus;

- a. The Appellant was arraigned in Court on 16/10/2017 and was read the Charges to which he pleaded Not Guilty and thereafter was granted bond and remanded in Custody.
- b. On 28/12/2017, the Accused sought Statements to be supplied and the Trial Court granted the order.
- c. On 23<sup>rd</sup> April 2018, the Accused sought Statements to be supplied and the Trial Court granted the order.
- d. On 2/7/2018, the Accused sought Statements to be supplied and the Trial Court granted the order. Witnesses were not in Court but bonds had been extended to this date.
- e. On 6/7/2018, the Accused was supplied with Witness Statements and the Accused confirmed to the Court the Statements and P3 Form, Charge Sheet and Investigation Diary were provided to him.
- f. Hearing on 30/7/2018, the Witness despite bonds in the Court file the Witnesses failed to appear. Th Prosecution applied Summons to issue to the Investigating Officer.
- g. On 3/9/2018, the Prosecutor was in Court No1 conducting a hearing
- h. The hearing commenced on 3/12/2018 when 3 witnesses were present and were found.

41. The delay in prosecuting the matter was caused by myriad reasons and by all parties involved and on reasonable grounds; the Trial Court was officially on leave and attended judicial training; the Prosecution delayed to bond/avail witnesses and also were in the other Court prosecuting matters; seems there was shortage of staff.

42. The Appellant applied and recalled PW4 Investigation Officer on 10/12/2019 whose evidence was on 3/3/2020.

43. The Accused applied to be supplied with proceedings before he was placed on his defense.

44. The totality of the above summarized outline is that whereas the Court is supposed to expedite Court proceedings it ought to do so while considering reasonable grounds for adjournment and balancing both the Accused persons rights and victims' rights and whether the reasons advanced are plausible and/or reasonable in the circumstances grant adjournment. The Court has taken into consideration that in light of different parties involved in conducting criminal proceedings, it is difficult to index



what shall constitute inordinate delay and on what grounds and hence no timeline is set after which the delay affects/infringes on the Accused person's rights.

45. To this Court, the delay having been caused by all involved, this Court cannot blame the Trial Court. As to the Appellant's rights to an expedited hearing this is a constitutional right and in the circumstances the delay shall be countered by considering the period in remand awaiting and during trial to be taken into account in computing his sentence.

46. The Appellant deposed that that the ingredients of the offence were not established against the Appellant; *Hillary Nyongesa Vs Republic* Criminal Appeal No 123 of 2009 established ingredients of the offence are the age of the complainant, proof of penetration and identification of the Appellant.

a. Age of the complainant

The complainant told the court she is 15 years old. The same was proved by production of the child health card by PW2 & PW 4 confirming her date of birth as 15/03/2003 and the offence being committed on 7<sup>th</sup> October, 2017 the complaint was aged 14 years then.

b. Proof of penetration

The Complainant testified that the appellant dragged her into the bush, she fell down facing up and the Appellant removed her clothes, he covered her mouth with her mother's lesso and strangled her, when she attempted to scream he then removed his clothes, inserted his penis in her vagina and afterwards was bleeding. PW5 the medical officer who examined her stated that her hymen was absent.

c. Whether appellant was properly identified

The complainant stated that she went to fetch water at 11.00 a.m. when she met the accused and two had a conversation before he defiled her in the bush. This was in broad daylight and The Appellant and Complainant were in close proximity as they talked and shortly thereafter were engaged in a struggle as he defiled her. Hence visibility was clear for proper identification. The Appellant was well known to PW1 as she reported him to her mother as Simon and her parents PW2 & PW3 went to his parents and reported the incident. His parents told them to pursue the matter with the Police. This a case of recognition and there was no possibility of mistaken identity.

47. See *R vs Turnbull & Others* [1973] 3 All E R 549 on identification, the court held that:

"... The Judge should direct the jury to examine closely the circumstances in which the identification by each witness came to be made. How long did the witness have with the Accused under observation? At what distance? In what light? Was the observation impeded in any way....? Had the witness ever seen the accused before? How often? If only occasionally, had he any special reason for remembering the accused? how long elapsed between the original observation and the subsequent identification to the police? Was there any material discrepancy between the description of the accused given to the police by the witness when first seen by them and his actual appearance?... Recognition may be more reliable than identification of a stranger but even when the witness is purporting to recognize someone whom he knows, the jury should be reminded that mistakes in recognition of close relatives and friends are sometimes made."

d. Contradictions and Inconsistencies.

48. The Appellant further deposed that there were material contradictions and inconsistencies in the evidence which not only brought out the prosecution witnesses as incredible and worthless of belief but also impugned the whole prosecution's case. The Appellant made reference to explicit contradictions that PW1 contended that he burnt their toilet and later in her testimony stated that the



Accused did not to their home at 8 pm. The evidence of burning the toilet was not corroborated by any independent evidence and hence a wild allegation.

49. Secondly, PW2 told the Court the Complainant got home at 11pm and he got home at 12 pm and was informed by the Complainant of the incident Yet PW3 stated that the Complainant told her of the incident at 4 pm and when her husband came home she told him at 4 pm what happened to PW 1 their daughter.
50. The Complainant stated that the children who were chased away said they would report to her mother, yet PW3 got wind of the incident when PW1 reported to her.
51. Pw3 stated that her daughter PW1 was walking with legs apart but PW3 stated that she was walking properly except that she is epileptic.
52. To these contradictions and inconsistencies the Court relies on the case of *Philip Nzaka Watu vs Republic* [2016] eKLR Court of Appeal held

“However, it must be remembered that when it comes to human recollection, no two witnesses recall exactly the same thing to the minutest detail. Some discrepancies must be expected because human recollection is not infallible and no two people perceive the same phenomenon exactly the same way.”

53. The contradiction regarding burning of a toilet, that was not reported and was not investigated as the evidence on record by PW4 Investigation Officer confirmed.
54. The inconsistency as to time of report and information, the evidence on record is that PW1 found her mother at home who was sick and had sent her to fetch water. PW3 her mother said PW1 took time to tell her what happened. Clearly, PW2 was not at home at the time but was informed later. So time is not critical here as to when the incident occurred at 11am.
55. Consequently, if Pw2 was not home when Pw1 came home and found PW3 only, he would not possibly have seen her walk in with legs apart and hence he stated how he saw his daughter walk later. These Contradictions are not grave and critical to dislodge cogent and tangible evidence adduced by the Prosecution.

### **Witnesses and Exhibits**

56. The Appellant asserted that the critical witnesses and essential exhibits needed to substantiate the prosecution case were not availed. The Appellant stated that that the critical witnesses, the village elder called Joseph who was at the River was not called to testify and the children who accompanied the Complainant who ought to have gone to call for help. The Appellant also asserted that essential exhibits; the Complainants clothing at the time were not presented in Court as exhibits.
57. The law Section 143 of *Evidence Act* provides for sufficiency of evidence based on a single witnesses' testimony. In *Samuel Kagiri Njuguna v Republic* [2016] eKLR the court held that all that the prosecution is required to do is to call such a number of witnesses as it thinks is sufficient to prove its case.
58. It is therefore not prejudicial by and of itself that the evidence on record is that of the Complainant only. Although this Court did not see and hear the testimony of the Complainant the evidence on record is detailed and graphic as to the events in question to have been conjured.
59. Secondly, the Complainant's evidence was/is corroborated by the Medical evidence by Pw5 that her hymen was absent.



60. Thirdly, the incident took place in broad daylight and it was recognition of the Appellant as she reported the incident to her parents and named him, Simon and the parents went to his parents (father is called JMN) and reported the incident.
61. It is not shown that Joseph who was at the River was at the scene of the incident and witnessed it so as to be called as a witness. The children as per Complainant's evidence had been sent away from the scene by the Accused.
62. With regard to the Clothes the Complainant had on the day of the incident of defilement, PW2 stated they carried the clothes to Masinga Hospital and later took them home. It is not clear whether they were tested or not but they were not presented to PW5, Clinical Officer whom they went to after 3 days.

### **Accused Persons Defense**

63. The Appellant posited that the Magistrate failed to freshly exhaustively, comprehensively and deliberately analyze, weigh and consider the cogent defense case which not only exhibited evidence of bad blood between the accused person on and the rest of the prosecution witnesses but also exonerated the appellant from any wrong doing.
64. The Appellant's testimony at Pg 58 of the typed proceedings questioned Complainant's testimony from her recorded statement and that she was in the company of other children and did not call them as witnesses and the time the Complainant reported the matter to her mother was at 12 pm, The Complainant was sent by her mother at 10am and went back at 11.30. The Investigation Officer did not conduct investigations. He had a grudge with the mother of Complainant over fetching water from the river on his farm. He did not defile the Complainant at the time and he was not there on the material day but was faraway with the motor vehicle.
65. The Trial Court's judgment at pg 9 considered the Appellant's defence and stated in a nutshell that the Appellant cross-examined only PW2 on the alleged grudge but did not cross examine PW3 whom he stated in his defense had a grudge with him, PW1 or PW4 who are not his neighbours and so did not have a grudge with him. The Appellant's Defense did not dislodge the evidence by Clinical Officer PW5 that PW1's hymen was absent. For these reasons the Trial Court considered and dismissed the Defence of the Appellant.
66. If as per the Appellant there was an ongoing grudge over fetching of water from the river on his land, the genesis of the case would have been by PW2 & PW3 and not PW1, the Complainant.

### **DISPOSITION**

67. In view of the foregoing, having considered the evidence on record I am unable to find any ground to warrant this Court interfering with the findings by the Trial Court and sentence meted out under the law. Therefore, I find the appeal is without merit and the same is dismissed.
68. However, in light of the sentence, the Trial Court did not indicate whether the sentence would include the period the Appellant was in custody before sentence. In compliance with Section 333(2) CPC the Sentence of 20 years shall be computed to include the period beginning 16<sup>th</sup> October 2017 when he was arraigned in Court 16/10/2017 to the date the Appellant was sentenced on 14/10/2020; a period of 36 months.

**DELIVERED SIGNED & DATED IN OPEN COURT ON 21<sup>ST</sup> FEBRUARY 2022 (VIRTUAL CONFERENCE)**

**M.W. MUIGAI**



**JUDGE**

