



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIVASHA**

**CORAM: R. MWONGO, J.**

**CRIMINAL APPEAL NO. 10 OF 2019**

**MESHACK KURIA MUNYUA.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Being an Appeal from the Original Conviction and Sentence in Criminal Case No.109 of 2016 (S.O.) in the Senior Principal Magistrate’s Court, at Engineer, D. N. Sure, SRM*

**DIRECTIONS**

1. Having carefully perused the material in the file herein, the court notes that the Appellant’s written submissions concern a Petition of Appeal filed on 2<sup>nd</sup> August, 2019 and not the Amended Grounds of Appeal filed on 14<sup>th</sup> October, 2020, and submissions thereon.
2. The DPP’s submissions cover the following aspects of the appeal: the issues of Proof of Penetration; Failure to affirm the PW1 and PW2 and the issue of Sentence. Those are the issues raised in the Amended Grounds of Appeal filed on 14<sup>th</sup> October, 2020.
3. In order not to cause any prejudice to the Appellant, there is need for clarity and certainty on exactly what is the appeal and what the State is expected to defend against.
4. Accordingly, parties are directed to return to court to clarify which documentation the Appellant is relying on in his appeal; and which the DPP is to respond to.
5. Consequently, new dates for making the clarification and highlighting the parties submissions to be taken in the term.

**Administrative directions**

6. Due to the current inhibitions on movement nationally, and in keeping with social distancing requirements decreed by the state due to the Corona-virus pandemic, this Judgment has been rendered through Teams tele-conference with the consent of the parties noted hereunder, who were also able to participate in the conference. Accordingly, a signed copy of this judgment shall be scanned and availed to the parties and relevant authorities as evidence of the delivery thereof, with the High Court seal duly affixed thereon by the Executive Officer, Naivasha.
7. A printout of the parties’ written consent to the delivery of this judgment shall be retained as part of the record of the Court.
8. Orders accordingly.

**Dated and Delivered in Naivasha by teleconference this 3<sup>rd</sup> Day of August, 2021.**

\_\_\_\_\_

**R. MWONGO**

**JUDGE**

Attendance list at video/teleconference:

1. Ms Maingi for the Respondent
2. No Representation for the Appellant
3. Meshack Kiria Munyua – Present at Naivasha Maximum Prison
4. Court Assistant - Quinter Ogutu