



**REPUBLIC OF KENYA**

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

**CRIMINAL APPEAL NO. 1 OF 2018**

**(CORAM: R.E. ABURILI – J)**

**STEPHEN OMONDI OTIENO.....APPELLANT**

**VERSUS**

**STATE.....RESPONDENT**

*(Being an Appeal against sentence and conviction dated 25.8.2015 in Criminal Case No. 438 of 2015 in Bondo Law Court before Hon. M.O. Obiero – PM).*

**RULING:**

1. The Appellant Stephen Omondi Otieno was convicted of the offence of defilement of a girl aged 17 years by P.M's Court at Bondo on 25.8.2015. He was sentenced to serve 15 years. He challenged the conviction and sentence vide this appeal filed on 5.1.2018 which was nonetheless filed out of time without leave of Court.
  2. This appeal was therefore amenable for striking out as this Court has no jurisdiction to hear and determine appeals or proceedings which are initiated out of the stipulated statutory period.
  3. Nonetheless, the appellant has sought to withdraw his appeal against conviction and only urges the Court to consider reducing the sentence of 15 years imprisonment meted on him.
  4. I hereby mark the appeal against conviction as withdrawn.
  5. On sentence, I find that Section 8(4) of the Sexual offences Act provide for Minimum Prison Sentence of 15 years for a convict of defilement of a child aged between 15 – 18 years.
  6. The trial Magistrate had the power and discretion to sentence the appellant to serve a longer prison sentence, but sentenced him to serve 15 years which is the minimum. This Court has no power to reduce minimum prison sentence.
  7. Accordingly, the challenge to the sentence is not merited. It is dismissed.
- The 15 years imprisonment is upheld. The appellant to serve full sentence.
8. Orders accordingly. File Closed.

**DATED, SIGNED AND DELIVERED IN SIAYA THIS 25<sup>TH</sup> DAY OF MARCH, 2019.**

**R.E. ABURILI**

**JUDGE**