



**REPUBLIC OF KENYA**

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

**MISC. CRIMINAL APPLICATION CASE NO. 2 OF 2018**

**J. K. N.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1. J K N has applied for leave to appeal out of time. He is aggrieved against the judgment of this Court (Hon. Wendoh J.) made on 25<sup>th</sup> February, 2016 upholding the judgment of the Senior Resident Magistrate's Court, Githongo wherein he had been convicted with the offence of incest contrary to **Section 20 (1) of the Sexual Offences Act** and sentenced to life imprisonment..

2. The time for appealing expired on 11<sup>th</sup> March, 2016. He lodged the present application on 9<sup>th</sup> January, 2018. There is therefore a delay of one (1) year and ten (10) months. That is in all circumstances, inordinate.

3. The reasons advanced for the delay is that the relatives of the applicant had promised to hire an Advocate for him to prefer an appeal to the Court of Appeal but they did not. That as a result he was not able to appeal in time. The Applicant has contended that the intended appeal has overwhelming chances of success.

4. Having considered the case in its entirety, I find the reasons advanced for the delay not to be credible. It is not feasible that a family that had promised to hire an Advocate could fail to do so and the applicant wait for nearly two years to prefer the present application. To my mind, that is not plausible explanation.

5. I have considered the long sentence metted out to the applicant. The applicant may have been satisfied with the decisions of the two courts and that is why he may have lost interest in appealing to the Court of Appeal.

6. Accordingly, leave is denied.

**DATED and DELIVERED at MERU this 24<sup>th</sup> day of January, 2018.**

**A. MABEYA**

**JUDGE**