



**REPUBLIC OF KENYA**

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

**MISC. CR. APPL. NO. 31 OF 2018**

**(CORAM: R. E. ABURILI - J.)**

**JOHN OCHICHI OKOTH.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING ON APPLICATION**

The Applicant/Convict, **John Ochichi Okoth** was charged with the offence of defilement contrary to **Section 8(1) and (2) of the Penal Code** before Siaya PM's Court. He pleaded not guilty, was tried and convicted on 11<sup>th</sup> December 2013 and sentenced to serve life imprisonment.

The victim of the offence, was a child aged 3 years. She is V.A. dissatisfied with the conviction and sentence imposed by Hon. M.S. Kimani, RM, the convict appealed vide Siaya HCCRA 17/2016 and on 19<sup>th</sup> February 2018, Hon. T.W. Cherere J delivered a judgment on behalf of Hon. D.S. Majanja J who heard the appeal. The learned Judge dismissed the appeal and confirmed the conviction and upheld the life sentence imposed by the trial court.

He now wishes to challenge the decision of this Court on appeal, to the Court of Appeal.

He has filed an application for leave to file Notice of Appeal out of time and for waiver of court fees.

I have considered the application and the grounds together with the deposition by the applicant. I am not satisfied that the applicant has given sufficient cause why he did not file Notice of Appeal within the stipulated time. In addition, lawful incarceration does not necessarily render one poor. The intended appeal is a second appeal and the applicant has not demonstrated that there is any question of law proper for determination by the Court of Appeal.

In this premises, I find the application wanting in merit. I dismiss the same.

The convict to serve sentence meted out on him and as upheld by the High Court.

***Dated, Signed and Delivered at SIAYA this 31<sup>st</sup> day of July 2018.***

**R.E. ABURILI**

**JUDGE**