

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL APPEAL NO 109 OF 2017

SAMUEL BUNDI THURANIRA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Appeal from original Sentence dated 17/11/2014 in Nanyuki CM Criminal Case No 1221 of 2012 – E Ngigi, SRM)

J U D G M E N T

1. The Appellant in this appeal, **SAMUEL BUNDI THURANIRA**, was convicted after trial of ***attempted defilement of a child*** contrary to **section 9(1) & (2)** of the ***Sexual Offences Act, No 3 of 2006***. It was alleged in the particulars of the offence that on 11th November, 2012 at in Meru County, he intentionally and unlawfully attempted to cause his penis to penetrate the vagina of one **M K**, a child aged 17 years. On 17th November, 2014 he was sentenced to serve twelve (12) years imprisonment. He appealed only against the sentence.

2. The law provided for a minimum term of imprisonment of ten (10) years for the offence. Although the Appellant was a first offender, there was violence involved in the commission of the offence. The Appellant bit the complainant's eye and mouth for which she was treated in hospital. Although the trial court did not say so, the additional two (2) years over and above the minimum must have been on account of the said violence.

3. I find no justification at all to interfere with the sentence imposed upon the Appellant. The sentence was lawful and richly deserved. There is no merit in the appeal against sentence. It is hereby dismissed. It is so ordered.

DATED AND SIGNED AT NANYUKI THIS 2ND DAY OF AUGUST 2018

H P G WAWERU

JUDGE

DELIVERED AT NANYUKI THIS 15TH DAY OF AUGUST 2018