

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL APPEAL 19 OF 2015

C M W APPELLANT

VS

REPUBLIC..... RESPONDENT

18/9/2017

Before Justice Mary Kasango

Court assistant; Njue/Mariastella

Court in chamber in absence of parties:

The appellant C M W was charged and convicted before the Nanyuki Senior Principal Magistrates Court in Criminal Case Number 329 of 2010 for the offence of incest contrary to **section 20(1)** of the Sexual Offences Act. He filed two appeals against that conviction before Nyeri High Court. Those Appeals were **Criminal Appeal Number 111 of 2011** and **Criminal Appeal Number 116 of 2011**. Nyeri High court by the Judgment of 18th March 2016 set aside his conviction in Criminal Appeal Number 111 of 2011. Unaware of that appeal Nyeri High court transferred its Criminal Appeal Number 116 of 2011 to this court which in turn was given case number Nanyuki **Criminal Appeal Number 19 of 2015**.

That in Criminal Appeal Number 19 of 2015 cannot be allowed to remain on record because it would be tantamount to hearing appellants appeal twice.

It is for that reason that I hereby strike out Nanyuki Criminal Appeal Number 19 of 2015. I order that file be closed. I request **Deputy Registrar to have these proceedings typed and be supplied to office of director of public prosecutions.**

DATED AT NANYUKI THIS 18TH DAY OF SEPTEMBER 2017.

MARY KASANGO

JUDGE