



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL APPEAL NO. 82 OF 2016

PETER LENARONGAI SIAMPOIAPPELLANT

versus

REPUBLIC.....RESPONDENT

(Being an appeal from the original conviction and sentence in Maralal Senior Principal Magistrate's Court Criminal Case No. 1 of 2013 by Hon. C. N. NDEGWA Senior Principal Magistrate on 2nd January 2013)

JUDGMENT

1. **PETER LENARONGAI SIAMPOI** was convicted on his own plea of guilt to an **offence of an indecent act with a child contrary to section 11(1) of the sexual offence act**. On confirming that the facts of the case were correct the trial court sentenced him to term of 10 years imprisonment. He was aggrieved by that sentence and has filed his appeal. He appeals only against his sentence.
2. His submissions in support of his appeal is entitled mitigation. Under that title he submitted that he was a first time offender, a family man of two children and that he is reformed and remorseful.
3. Learned Principal Prosecuting Counsel Mr. Tanui opposed the appeal against sentence. Although in his submission learned counsel stated that the appellant was convicted on a charge of attempted rape the trial court record does not reflect that. The record of the trial court shows that the appellant pleaded not guilty to the main charge of attempted defilement but pleaded guilty to the alternative charge of committing an indecent act with a child.
4. Having considered the submission presented before this court it is important to restate what the court often stated that an appellant court does not alter a sentence unless the trial court acted on wrong principals or overlooked factors necessary in the case. See the case of **OGOLLA s/o OWUOR (1954) EACA 270**. The sentence provided under **section 11** of the Sexual Offences Act the section under which the alternative charge was framed is 10 years imprisonment. In the court's view the trial court did not excessively sentence the appellant.
5. It is also important to state that the facts of the case for the trial court were that the victim in the company of another young girl were collecting firewood. The appellant appeared and began to chase the two girls and managed to catch the victim in the case. on catching her he knocked her down removed her inner clothing and when he was in the process of undressing, the victim screamed which caused the appellant to run away fearing the members of the public who were not far from the scene.
6. Bearing those facts and bearing the sentence provided under section 11 (1) of the Sexual Offence Act I find that the appellant's appeal has no merit and it is hereby dismissed. The trial court's sentence is

hereby confirmed.

DATED and DELIVERED at NANYUKI this 31ST day of OCTOBER 2017

MARY KASANGO

JUDGE

CORAM

Before Justice Mary Kasango

Court Assistant: Njue/Mariastella

Appellant: Peter Lenarongai Siampoi.....

For the State:

Language:

COURT

Judgment delivered in open court.

MARY KASANGO

JUDGE