

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL APPEAL NO.169 OF 2011

(An Appeal arising out of the conviction and sentence of Hon. T. Mwangi – SRM delivered on 18th July 2011 in Makadara CM.CR. Case No.491 of 2010)

REPUBLIC.....PROSECUTOR

VERSUS

J K K.....ACCUSED

RULING

The Appellant, J K K was charged and convicted of the offence of **committing incest** under **Section 20(1)** of the **Sexual Offences Act** and **sexual assault** under **Section 5(1)** of the **Sexual Offences Act**. In respect of the first count, he was sentenced to serve fourteen (14) years imprisonment. In respect of the second count, he was sentenced to serve five (5) years imprisonment. He filed an appeal to this court. The Appellant was released on bail pending the hearing of the appeal.

The Appeal was heard by this court on 19th April 2016. Judgment was reserved for 18th May 2016. The Appellant did not attend court for the delivery of Judgment. On 19th May 2016, this court was informed that the Appellant had been fallen ill and had been hospitalized. That said to be the reason why he failed to attend court. The court listed the case for Mention on 14th June 2016 and then on 22nd June 2016 when it was informed that the Appellant had succumbed to his illness on 31st May 2016. The court asked the family of the Appellant to provide proof of the death of the Appellant. The same was supplied to court on 20th June 2016. The documents supplied included the burial permit and admission chit of the Appellant's body at Kenyatta University Funeral Home.

This court is satisfied that the Appellant is indeed deceased. In the circumstances therefore, this appeal is marked as abated. The file is ordered closed.

DATED AT NAIROBI THIS 5TH DAY OF AUGUST 2016

L. KIMARU

JUDGE