



**REPUBLIC OF KENYA**

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

**CRIMINAL APPEAL NO. 11 OF 2014**

**EZEKIEL KARUNG'E NTABUA.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(From the original conviction and sentence in criminal case No.2121 of 2011 of the Chief Magistrate's Court at Maua by Hon. J.G King'ori – Chief Magistrate)*

**JUDGMENT**

The appellant, **EZEKIEL KARUNG'E NTABUA**, was charged with an offence of defilement contrary to section 8(1) as read with section 8 (3) of the Sexual Offences Act No.3 of 2006.

The particulars of the offence were that on 8<sup>th</sup> July 2011 at [particulars withheld] village in Igembe District of Meru County, the appellant intentionally and unlawfully caused his penis to penetrate into the vagina of **T.K** a minor aged 12 years.

The appellant was convicted and sentenced to serve 20 (twenty) years imprisonment. He now appeals against sentence only.

Section 8(3) of the Sexual Offences Act provides as follows:

***A person who commits an offence of defilement with a child between the age of twelve and fifteen years is liable upon conviction to imprisonment for a term of not less than twenty years.***

The victim of defilement was aged 12 years. The minimum sentence for the offence is twenty years imprisonment. This is what the trial magistrate meted out. Any sentence less than twenty years would have been illegal.

I therefore dismiss the appeal and uphold the sentence by the learned trial magistrate.

**DATED at Meru 19<sup>th</sup> day of December 2016**

**KIARIE WAWERU KIARIE**

**JUDGE**