



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NYERI**  
**CRIMINAL APPEAL NO. 225 OF 2005**

**BAPTISTA WANJOHI *alias* WACHIRA.....APPELLANT**

**versus**

**REPUBLIC .....RESPONDENT**

*(arising from the judgment of Hon.R.A.A. Otieno Senior  
Magistrate Nyeri in Criminal Case No. 4644 of 2004)*

**JUDGMENT**

1. The Appellant **BAPTISTA WANJOHI *alias* WACHIRA** was charged with the offence of defilement contrary to section 145(1) of the Penal Code the particulars of which were that on 15th December 2004 in Nyeri District within Central Province had carnal knowledge of M.W.G. a girl under the age of sixteen years.
2. He faced an alternative charge of indecent assault on a female contrary to section 144(1) of the Penal Code the particulars of which were that on 15th December 2004 in Nyeri District of Central province, unlawfully and indecently assaulted M.W.G. a girl under the age of sixteen years by touching her private parts.
3. He pleaded not guilty, was tried and convicted on the offence of attempted defilement contrary to section 145(2) and sentenced to 16 years imprisonment.
4. Being dissatisfied with the said sentence the Appellant filed this present appeal and raised the following grounds in his home made grounds of appeal.
5. ***a. The sentence of 16 years was harsh.***
6. ***b. He is a young boy ready in nation building.***
7. ***e. He is the sole bread winner***
8. When the appeal came up for hearing before me the Appellant who was unrepresented submitted that he was only appealing against the sentence while Mr. Njue for the state submitted that the Appellant was charged under the Penal Code and sentenced to 16 years.
9. It should be noted that the Appellant was convicted under section 145(2) wherein the sentence provided for is imprisonment with hard labour for life whereas the Appellant was sentenced to only 16 years and therefore the sentence therein can not be considered as harsh.
10. It should be pointed out that under section 345(3)(b) this court has powers in an appeal against sentence to increase or reduce the sentence or alter the nature of the sentence and had the Appellant been put on notice would have enhanced the same to the lawful sentence provided.
11. I therefore find no merit on the appeal herein on sentence and dismiss the same.
12. Dated, signed and delivered at Nyeri this 28th day of March 2014.

J. WAKIAGA

JUDGE

1. Appellant in person.
2. No appearance by the state.
3. Court: Judgment Read in open court.

J. WAKIAGA2

JUDGE