



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CRIMINAL APPEAL NO. 186 OF 2012

MBEGA CHIPITUAPPELLANT

VERSUS

REPUBLICRESPONDENT

(From original Conviction and Sentence in Criminal Case No. 1247 of 2007 of the Chief Magistrate's Court at Mombasa – Hon. Gandani - PM)

JUDGMENT

The Appellant herein was Convicted and Sentenced to twelve (12) years imprisonment for the offence of defilement contrary to Section 8 (1) (3) of the sexual offences Act No. 3 of 2006.

The particulars being that:-

“On the 11th day of November, 2007 at about 1:00 a.m. At [Particulars withheld] Kasemeri Kwale County he had unlawful carnal knowledge of M M a girl aged fifteen (15) years”.

This case went to full hearing and determination. The appeal is on both Conviction and Sentence but in his submissions the Petulant has abandoned the grounds on Conviction and opted to proceed on the Sentencing aspect only.

The offence of defilement with which the Appellant is charged carries an imprisonment Sentence of not less than twenty (20) years. It is noted that he was Sentenced to twelve (12) years/Imprisonment only.

The only interference which I can do is to enhance the Sentence. The state had not applied for enhancement and I am constrained to so do.

The upshot is that the appeal has no merit and it is disallowed.

Judgment delivered dated and signed this **20th** day of **March, 2014**.

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M. MU YA

JUDGE

20TH MARCH, 2014

In the presence of:-

Learned Counsel for the State Miss Mwaura

The appellant present

Court clerk Buoro