

her screams.

After examining the complainant, the clinical officer (PW4) confirmed that there was actual penetration and in his investigations, P.C. Ochieng (PW2), concluded that the appellant was responsible for the offence and charged him accordingly.

Although the appellant denied the offence and contended that he was framed up, his father (DW1) did not know anything about the offence. He (DW1) said that he did not know what happened.

The offence occurred in broad daylight. The possibility of wrong identification of the appellant was remote and that is why it was easy for the learned trial magistrate to not only find that the complainant was actually raped but also that the appellant was responsible for the offence.

This court does not think that the learned trial magistrate was mistaken in the findings, regard being given to the evidence adduced by the complainant and corroborated by the clinical officer (PW3).

Consequently, the appellant's conviction is hereby upheld and the sentence confirmed.

In sum, the appeal is dismissed in its entirety.

[Delivered and signed this 18th day of March, 2014.]

J.R. KARANJA.

JUDGE.