



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CRIMINAL APPEAL NO. 41 OF 2011

KAHINDI HAREAPPELLANT

VERSUS

REPUBLICRESPONDENT

(From original Conviction and Sentence in Criminal Case No. 274 of 2010 of the Senior Resident Magistrate's Court at Kwale – Hon. Usui Macharia - **SPM**)

JUDGMENT

KAHINDI HARE hereinafter referred to as the Appellant was Convicted and Sentenced to ten (10) years imprisonment for the offence of attempted defilement contrary to section 9(1) and 2 of the Sexual offences Act No. 3 of 2006.

The particulars are that:-

“On the 14th day of February, 2010 at around 4:00 am in Kwale County he attempted to commit an Act which could cause penetration to D H F a child aged eight (8) years”.

In his submissions he withdraws his memorandum grounds of appeal on Conviction and states that he would only attack the appeal only on Sentence.

In his mitigation he states that he is remorseful and prays for leniency. He further states that he was not sober at the time of the commission of the offence.

The Appellant was Convicted for a charge of attempted defilement contrary to section 9(1) as read with 9(2) of the Sexual offences Act No. 3 of 2006 which provides for an imprisonment term of not less than ten (10) years.

The Appellant was Sentenced to serve an imprisonment term of ten (10) years which is the minimum Sentence provided in law. It being the minimum Sentence allowable, the Court cannot interfere.

The appeal has no merit and its disallowed.

Judgment delivered dated and signed this 30th day of September, 2014.

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M.MUYA

JUDGE

30TH SEPTEMBER, 2014

In the presence of:-

Mr. Jami Learned Counsel for the State

The appellant in person

Court clerk Musundi