



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI
CRIMINAL APPEAL NO.36 OF 2011

BETWEEN

JEFFERSON MURITHI MBUBA APPELLANT

AND

REPUBLIC RESPONDENT

(Being an appeal from the original conviction and sentence in criminal case No.210 of 2011

in Mukurweini SRM's Court dated 3rd March, 2011, Hon. F.M. Kombo, SRM)

JUDGMENT

1. The appellant was charged with the offence of defilement of a boy contrary to **Section 8 (2)** of the **Sexual Offences Act No.3 of 2006**. The particulars of which were that on the 13th day of April 2010 in Mukurweini District within Central Province, committed an act which caused penetration with BM a boy aged 6 years.
2. He faced an alternative charge of Indecent Act with a child contrary to **Section 11 (1)** of the **Sexual Offences Act No.3 of 2006**. The particulars of which were that on 13th day of April 2010 in Mukurweini District within Central Province unlawfully and intentionally committed an Indecent Act with B.M. an indecent act which he would not have allowed.
3. He pleaded not guilty, was tried, convicted and sentenced to life imprisonment. Being aggrieved by the said conviction and sentence, he filed this appeal through his home grown grounds of appeal filed on 9th March 2011.
4. When the appeal came up for hearing before me, the appellant who was unrepresented filed an amended grounds of appeal as follows:-
 - a. *He was convicted upon improperly obtained evidence.*
 - b. *He was detained for more than 24 hours as provided for under **Section 72 (3)** of the **Constitution**.*

1. Submissions

2. It was submitted by the appellant that the evidence against him was improperly obtained and was aimed at framing him. It was submitted that the appellant was never taken for medical examination so as to link him with the offence and that he was not taken to court as was by law required. It was submitted that the prosecution evidence was based on hearsay and in particular PW3, PW4, PW5, PW6 and PW7.
3. Miss Maundu for the State submitted that the delay in taking the appellant to court was not inordinate and further submitted that if the court find that there was a delay then the appellant can apply for compensation. She submitted that there was no requirement from the appellant to be

Delivered by Justice J. Ngaah on behalf of Justice Wakiaga

1. this 25th day of November 2014

1. **J. NGAAH**

2. **JUDGE.**

In the presence of:

----- Appellant

----- for State