

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

CRIMINAL APPEAL NO. 250 OF 2009

ABDIRIZAK ABDI APPELLANT

VRS

REPUBLIC RESPONDENT

(Being an appeal against both conviction and sentence in Criminal case No. 2079/2008 in Isiolo Law Court before C.O. Owiye)

J U D G M E N T

The appellant Abdirizak Abdi was charged with an offence of attempted defilement contrary to section 9 (1), (2) of the Sexual Offences Act No. 3 of 2006. The particulars of the charge were that on 19th day of December 208 at Isiolo town in Isiolo District within Eastern Province the appellant attempted to defile Z Z A a child aged 10 years. The appellant faced court II of stealing contrary to section 275 of the Penal Code. The particulars of the charge were that on 19th day of December 2008 at Isiolo town in Isiolo District within Eastern Province the appellant stole the radio make sonitel valued at kshs.700/= the property of Ambia Haji.

The appellant faced count of handling stolen goods contrary to section 322 (2) of the Penal code. The particulars are that on 19th day of December 2008 at Isiolo town in Isiolo District within Eastern Province otherwise than in the cause of stealing dishonestly handled one radio sonitel the property of Ambia Haji knowing or having reason to believe it to be stolen property.

The appellant was convicted of attempted defilement and sentenced to 10 years imprisonment. He was also convicted of stealing and sentenced to serve 8 months and the sentence were to run concurrently.

Mr. J. Motende opposed the appeal against sentence and stated the sentence imposed was the minimum sentence.

I have considered the sentence imposed of 10 years and find it to be the minimum sentence provided for an offence of attempted defilement. The appellant was sentenced to serve the minimum sentence provided and as such the court cannot interfere with the sentence imposed.

The appeal against sentence is therefore without merits and is dismissed .

DATED, SIGNED AND DELIVERED AT MERU THIS 28TH DAY OF OCTOBER 2013.

J.A. MAKAU

JUDGE.

DELIVERED IN OPEN COURT IN THE PRESENCE OF

1. APPELLANT PRESENT IN PERSON
2. Mr. Motende for the State.

J.A. MAKAU

JUDGE.