

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
(MILIMANI LAW COURTS)
CRIMINAL APPEAL 479 OF 2008

ANTHONY MBUGUA MUTURI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The appellant was convicted under **Section 3(3)** of the **Sexual Offences Act No. 3 of 2006**. He was sentenced to ten years which is the minimum sentence provided by the act.
2. In view of the circumstances of the offence in which by his own admission the appellant had sexual intercourse with a mentally retarded girl who was also mute. It is obvious that she had no capacity to consent or even to understand the act which was being subjected to.
3. Indeed the appellant is a young man in the prime of his life who should be out there contributing to nation building but he chose to act like a bird of prey which takes advantage of the weak and disadvantaged in society instead of protecting and looking after them.
4. In the circumstances of this case the sentence cannot be interfered with.

Reasons wherefore I dismiss the appeal.

SIGNED DATED and DELIVERED in open court this **25th** day of **April 2012**.

Court:

Right of appeal within 14 days explained to the appellant.

Copy of Ruling may be availed to the appellant

L. A. ACHODE
JUDGE