



**REPUBLIC .....RESPONDENT**

**VERSUS**

**HASSAN ONYONKA .....APPELLANT**

**JUDGMENT**

The appellant was charged with the offence of defilement of a child contrary to Section 8 (1) as read with Sub Section 3 of the sexual offences Act No. 3 of 2006. There was an alternative charge of indecent act with a child contrary to Section 11 (1) of The Sexual Offences Act No. 3 of 2006.

The record shows that the appellant first denied the charge but subsequently changed his plea and admitted the offence. The facts were then stated by the prosecutor which he admitted. He was allowed to mitigate and the court imposed a sentence of twenty years imprisonment. This is an appeal against both the conviction and sentence.

In the grounds of appeal he complains that the learned trial magistrate erred in law and fact in convicting him on a plea of guilty without warning him of the consequences of such a plea. He also faults the learned trial magistrate for failing to find that the plea of guilty was obtained by coercion.

There is no requirement in law that the accused person must be informed of the consequences of admitting an offence, at least in the Act under which the appellant was charged. The appellant had the opportunity to inform the court that he admitted the offence under coercion. In any case he does not identify the person who coerced him into admitting the offence. The proceedings were conducted in Kiswahili language and he has not complained that he did not understand the language of the court.

He participated in the proceedings first, by entering the plea of guilty and responding to the facts as stated by the prosecutor. He also mitigated before he was sentenced by the learned trial magistrate. At the hearing of this appeal he only addressed the issue of sentence which he said was too long and asked that it be reduced.

The law states the minimum sentence of such offences. That is what the learned trial magistrate imposed. That sentence cannot be said to be harsh, if anything the learned trial magistrate was lenient in that the offence is serious, and the complainant is said to be deaf and dumb. I see no merit in this appeal which is hereby dismissed.

Orders accordingly.

*Dated, signed and delivered at Nairobi this 26<sup>th</sup> day of June, 2011.*

**A. MBOGHOLI MSAGHA**

**JUDGE**