



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KITALE**

**Criminal Appeal 65 of 2010**

**EMMANUEL LODIRA.....APPELLANT.**

**AND**

**REPUBLIC.....RESPONDENT.**

*(Being an appeal from the original conviction and sentence of T. Nzioki – SRM in Criminal Case No. 332 of 2010 delivered on 7<sup>th</sup> June, 2010 at Lodwar)*

**J U D G M E N T.**

The appellant **EMMANUEL LODIRA** was charged with the offence of defilement contrary to section 8 (1) as read with section 8 (2) of the Sexual Offences Act 2006. The information of the charge states that on the night of 30<sup>th</sup>/31<sup>st</sup> May, 2010 in Turkana West District within the Rift Valley province, intentionally and unlawfully committed an act which caused penetration to the genital organs of **N.R.W**, a child aged 14 years.

He was also charged in an alternative charge of indecent act with a child contrary to section 11 (1) of the Sexual offences Act 2006. The information of the charge states that on the 30<sup>th</sup>/31<sup>st</sup> May, 2010 in Turkana West District within the Rift Valley province, intentionally and unlawfully committed an indecent act **N.R. W**, a child aged 14 years old by touching her genital organs namely vagina.

The appellant pleaded guilty to the charge and was convicted and sentenced to thirty (30) years in prison.

Being aggrieved by the conviction and sentence, the appellant has appealed, he relied on the following grounds of the appeal.

- (1) **THAT**, he was so confused that prompted him pleading guilty which he did not know the consequences.
- (2) **THAT**, he was misinformed by police officers that he should accept the charges and prays for forgiveness keeping in mind that was his first time to appear in court of law.
- (3) **THAT**, he prays for court to quash sentence and order retrial.

That he pleaded guilty but he did not know the consequences.

What needs to be determined are whether the perimeters of taking plea as in the case of **Adan vs. Republic** was complied with. The language used was English. The state opposed the appeal. This as a court of 1<sup>st</sup> appeal is mandated by law to re-evaluate both evidence and facts. Faces were read in great details where the accused was caught in the Act. The plea was therefore rightfully taken.

Was the sentence reasonable?

He defiled a 14 year old and as per the Act the sentence meted against him was within the law.

The court finds both the conviction and sentence safe, upholds both the conviction and sentence and dismissed the appeal in its entirety.

Read, dated and signed in the open court this 20<sup>th</sup> day of December, 2011.

**SIGNED**

**S.M. MUKETI.**

**JUDGE.**