

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU

Criminal Appeal 167 of 2009

*(From original conviction and sentence in Criminal Case No.1891 OF
2007 OF THE Principal Magistrate's court at Molo – S. M. S. SOITA, P.M.)*

KIPKURUI KIPKEMOI.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

KIPKURUI KIPKEMOI, the appellant, was upon trial for the offence of attempted defilement contrary to **Section 9(1)** of the **Sexual Offences Act** and the alternative charge of indecent assault of a girl under the age of 16 years contrary to **Section 11(1)** of the **Sexual Offences Act** convicted on the main charge and sentenced to ten years imprisonment. He appealed against both the conviction and sentence.

At the hearing the appellant abandoned the appeal against conviction and pleaded for the reduction of sentence arguing that before he was a wicked man but he has since met God who has transformed his life. He also submitted that he is an orphan who is taking care of his younger brother.

I have no reason to doubt that the appellant has indeed reformed. **Section 9(2)** of the **Sexual Offences Act**, however, ties my hands. It provides for a minimum sentence of ten years imprisonment for attempted defilement of a child which is the sentence that the trial magistrate imposed upon the appellant. In the circumstances I have no choice but to dismiss this appeal.

DATED and DELIVERED this 16th day of June, 2010.

D. K. MARAGA

JUDGE.