



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

Criminal Appeal 107 'B' of 2008

MWANZIA MWANIA.....APPELLANT

VERSUS

REPUBLICRESPONDENT

(Appeal from a Judgment of the Principal Magistrates Court at Makindu

(Hon. B Ochieng PM) dated 26th May 2008)

in

(PM'S CR.C. No. 482 of 2008)

JUDGMENT

1. The Appellant herein was charged with the offence of defilement Contrary to Section 8 (1) (3) of the Sexual Offences Act No. 3 of 2006. It was alleged "that on 20/5/2008 in Kibwezi District within the Eastern Province he committed an act which caused penetration with K.K. a child aged between 12 years and 15 years".

2. The Appellant admitted the offence and was sentenced to serve twenty (20) years in prison. When the Appeal came for hearing, he stated thus;

"I seek reduction of sentence".

3. I have perused Section 8 (1) (3) of the Sexual Offences Act and the minimum sentence permitted is twenty years. The Appellant's sentence was therefore the bare minimum allowable and this court has no discretion to reduce it as the Appellant prays.

4. That being the case and the Appeal limited to sentence only, there is no merit in it and the same is dismissed.

5. Orders accordingly.

Dated and delivered at Machakos this 18th day of September 2009.

ISAAC LENAOLA

JUDGE

In presence of: **Mr O'Mirera for Republic**

Appellant: Present

ISAAC LENAOLA

JUDGE