

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MACHAKOS

Criminal Appeal 18 of 2008

J M N:..... APPELLANT

VERSUS

REPUBLIC:.....RESPONDENT

JUDGMENT ON SENTENCE

1. The Appellant herein was convicted on his our plea of guilty of the offence of incest by a male contrary to section 20(1) of the Sexual Offences Act. It was alleged that on diverse dates between January and May 2007 at *[particulars withheld]* Village, Athi River he had carnal knowledge of M M, his daughter aged 12 years.
2. On 31.5.2007, the Appellant having admitted the offence was sentenced to life imprisonment. His appeal is by law and by his own submissions is limited to sentence only. He has raised no issue about the plea and I think correctly so.
3. The law regarding sentence is that an appellant court such as this one can only tamper with it if is illegal or manifestly excessive or if the sentencing court applied a wrong legal principle –see Griffin vs Republic [1981] KLR 121. In this case, the Appellant is only saying that he has young children to take care of. The victim of his crime is one such child. The view of the lower court as is the view of this court is that the Appellant’s continued action of defiling his daughter can only entitle him to be in custody. For life.
4. I have looked at the proviso to section 20 (1) of the Sexual Offences Act and the sentence is life imprisonment for a case like this one.
5. Neither the law nor the sorry circumstances of this case nor known principles of sentencing would sway my mind to reduce the sentence herein as is sought by the Appellant.
6. There are no reasons to do so and instead I will dismiss this Appeal.
7. Right of Appeal explained.
8. Orders accordingly.

Isaac Lenaola

Judge

4.6.2008