

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA

Criminal Appeal 4 of 2005

HAMISI NGALA CHUPLI APPELLANT

VERSUS

REPUBLIC RESPONDENT

J U D G E M E N T

The appellant admitted having defiled a girl under the age of 16 years contrary to Section 145 (1) of Penal Code.

The facts show that the Appellant met the girl (complainant) the 2nd day of February 2005. This was in Kivuleni village in Kwale. He committed the act and only afterwards thought of marriage. He paid dowry to the parents of Sh. 10,000/= which was accepted by the parents.

The parents should have been arrested for trying to sell their 15-year old girl child to the Appellant, an old man. The appellant now says he is 50 years old and he cohabited with the complainant for a period of 10 months.

These circumstances do not alter the fact that the Appellant committed the offence in the first place and he cannot take advantage of the situation by proceeding to pay dowry and to making the girl his wife. The punishment for this offence is life imprisonment with hard labour.

It is clear the Trial Magistrate considered all facts in coming to the sentence of 20 years with hard labour instead of imposing life sentence with hard labour.

I have considered the appeal and I find no reason to interfere with sentence or conviction. The appeal is dismissed.

Dated the 25th July 2005.

J KHAMINWA

JUDGE