



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

Criminal Appeal 458 of 2003

WESLEY LANGAT.....ACCUSED

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

The Appellant has appealed against the original conviction and sentence that was imposed on him in Molo, Senior Resident Magistrate's criminal case No.1512 of 2003. In that case, the Appellant had been charged for the offence of defilement of a girl under fourteen years of age, contrary to Section 145 of the Penal Code.

The Alternative charge against the Appellant is that of Indecent Assault on Female, contrary to Section 144 of the Penal Code. The facts of the prosecution case as stated in the charge sheet for Count 1 are as follows:-

“On the 1st July, 2003 at [particulars withheld], Olenguruone, Nakuru District of the Rift Valley Province, had unlawful carnal knowledge of NC, a girl under the age of fourteen.”

The facts of the prosecution case as stated in the charge sheet for the Alternative Count are as follows:-

“On the 1st July, 2003 at [particulars withheld], Olenguruone, Nakuru District of the Rift Valley Province unlawfully and indecently assaulted NC a girl under the age of fourteen years.”

During the hearing of the appeal, the Appellant opted to abandon his appeal against the conviction. Instead, the Appellant urged the court to reduce the sentence since his mother died in a road accident in the year 2002. Besides the above, the Appellant stated that he is the first born and that he has two sisters and four brothers. In addition to the above, the Appellant stated that he had done carpentry up to Grade II and that he wanted to apply his skills to build the nation. Apart from claiming that he had ulcers, the Appellant also presented written submissions to the Court. After perusing the submissions it is apparent that the Appellant has merely repeated the above mitigating factors.

On the other hand, the State through Mr. Gumo, Asst. DPP has supported the sentence since the victim was only 10 years old and would remain traumatized for the rest of her life. He further added that the learned Magistrate exercised his discretion properly and that the sentence was well deserved.

This Court has carefully perused the above together with the record of appeal. Apparently, the complainant was about 12 years old when the offence was committed. It was also obvious that the

Appellant was working for a neighbour, next to the home of the complainant. Having perused the P3 form carefully, I concur with the sentiments of Mr. Gumo that the complainant must have been traumatized by the incident.

Given the fact that the maximum sentence is life imprisonment, the sentence of 15 years imprisonment is reasonable under the circumstances. The upshot is that I hereby confirm the sentence of 15 years imprisonment.

Right of Appeal explained.

MUGA APONDI

JUDGE

28TH SEPTEMBER, 2005

Judgment read signed and delivered in open Court in the

presence of the Appellant and Mr. Njogu for State.

MUGA APONDI

JUDGE

28TH SEPTEMBER, 2005