



IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL APPEAL NO.258 OF 2003

(From original conviction and sentence in Criminal Case No.1979 of 2003 of the

Chief Magistrate's Court at Kisii –O. OPONDO ESQ., S.R.M)

BENSON OMARE APPELLANT

VERSUS

REPUBLIC RESPONDENT.

JUDGMENT

The appellant was convicted on his own plea of guilty for the offence of defilement c/s 145(2) Penal Code. He was sentenced to 14 years imprisonment and now appeals against sentence only. In his first ground of Petition he stated that the learned magistrate failed to take into account that he was a first offender and remorseful and that he pleaded guilty and saved courts time. He said sentence of 14 years is harsh for a young man of 18 years. Indeed appellant guilty. It seems that the prosecution did not give his previous records. In his mitigation he pleaded for leniency.

The court noted the offence is serious and awarded 14 years. The offence carries a maximum sentence of life imprisonment. As stated in the facts the appellant defiled a girl of 7 years. 14 years imprisonment is not harsh in the circumstances. He must probably have ruined the life of the innocent child and in this age of AIDS her future hangs on the balance. Appellant was lucky to escape with 14 years. I find no reason to interfere with the sentence. Appeal is therefore dismissed.

**KABURU BAUNI
JUDGE.**

6/7/04