

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CRIMINAL APPEAL NO.170 OF 2000

(From original conviction and sentence in Criminal

**Case No.1066 of 2000 of the Chief Magistrate's
Court at NAKURU –G.A. NDEDA(MRS)**

HUSSEIN NGARE MUSEE.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

The Appellant was charged with UNNATURAL OFFENCE contrary to Section 162(a) of the Penal Code and in the alternative with INDECENT ASSAULT ON A BOY contrary to Section 164 of the Penal Code. He has appealed against the sentence of 7 years and 2 strokes of the cane. He pleaded guilty to the main count and was convicted. He urges the court to reconsider the sentence blaming the commission of the offence on alcohol.

The Appeal was opposed by the Counsel for the State on grounds that the boy sodomised was only 13 years and will be stigmatised the rest of his life. Further that sentence was lenient being half the maximum provide under the Act.

I do agree. The act the Appellant committed cannot be excused even on grounds of alcohol. Besides, he did get a lenient sentence being half of that provided for under the Penal Code. I find no merit in this appeal and dismiss it accordingly.

Dated and delivered at Nakuru this 20th day of March, 2003.

**JESSIE LESIIT
JUDGE**