

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
CRIMINAL APPEAL NO.341 OF 2000

**(From original conviction and sentence in Criminal
Case No.8/2000 of the Senior Resident Magistrate's
Court at MOLO -J. KIARIE (S.R.M.)**

**SAMWEL THUKU MAINA.....APPELLANT
VERSUS
REPUBLIC.....RESPONDENT**

J U D G M E N T

The Appellant appeals against a sentence of 14 years and 10 strokes imposed upon him by the Molo SRM's Court. He had been charged with the offence of RAPE contrary to S.140 of the Penal Code.

He pleaded for leniency saying he had learnt his lesson while in prison and had undergone training that would enable him to be a reformed and responsible person.

The appeal is opposed. The Counsel for the State argued that the offence was serious and the circumstances of the offence were bad. I have considered this appeal. It is true that the offence of rape is quite serious and is one which no court can condone or encourage. The Appellant appears remorseful and is a young man. 14 years jail and 10 strokes were on the higher side as there were no exceptional or aggravating circumstances. He also admitted the charge showing remorse.

I will allow the appeal against sentence and reduce the term of imprisonment to 7 years and the strokes of the cane to 4(four).

Orders accordingly.

Dated and delivered at Nakuru this 18th day of March, 2003.

**JESSIE LESIIT
JUDGE**