

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
CRIMINAL APPEAL NO.153 OF 2003

PETER MIGIRO OTWAROAPPLICANT

VERSUS

REPUBLIC RESPONDENT

JUDGEMENT

The complainant was certainly ravished as stated by the complainant herself and the Clinical Officer (PW4) who examined her a few hours after the event.

The only question was who raped her. The complainant testified that it was the appellant. The incident happened in broad day-light. There was also the evidence of PW2 that on the material date he met with the appellant as the latter emerged from the scene of crime: the complainant was at that time crying and immediately complained to PW2 that the appellant had ravished her. It is worth noting that at some stage of the court proceedings the appellant somehow owned up to the crime. He confessed having had sexual intercourse with the complainant.

He only said that there was consent to the intercourse on the part of the complainant. So then his subsequent denial was rendered unacceptable by the overwhelming recorded evidence of PW1 and PW2. The sentence was reasonable and deserved. Accordingly the appeal is untenable and is dismissed in its entirety.

Dated and delivered on 3rd October, 2003.

**I.C.C WAMBILYANGAH
JUDGE**