



REPUBLIC OF KENYA



KENYA LAW
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**Wafula v Republic (Criminal Appeal 119 of 2023)
[2025] KEHC 3292 (KLR) (18 March 2025) (Judgment)**

Neutral citation: [2025] KEHC 3292 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL APPEAL 119 OF 2023
DR KAVEDZA, J
MARCH 18, 2025**

BETWEEN

QUINTINE BARAZA WAFULA APPELLANT

AND

REPUBLIC RESPONDENT

(Being an appeal against the original conviction and sentence delivered by Hon. C.K Mwaniki (S.R.M) on 13th March 2023 at Kibera Chief Magistrate's Court Sexual Offences Case no. E004 of 2023 Republic vs Quintine Baraza Wafula)

JUDGMENT

1. The appellant was charged and convicted on his own plea of guilty for the offence of attempted rape contrary to section 4 of the *Sexual Offences Act*, No. 3 of 2006. He was sentenced to serve six (6) years imprisonment.
2. Being aggrieved, he filed an appeal challenging his conviction and sentence. In his petition of appeal, he challenged the totality of the prosecution's evidence against which he was convicted. He urged the court to quash his conviction and set aside the sentence imposed.
3. By dint of section 348 of the *Criminal Procedure Code* no appeal lies against conviction where an accused has been convicted upon his own plea of guilty. However, it is trite law that in every appeal a point of law as to the propriety of the conviction is always alive and which an appellate court must address its collective mind to.



4. The appellant by virtue of the above section is barred from challenging the conviction except that he can challenge the extent and legality of the sentence meted on him by the trial court. The court in *Olal v Republic* [1989] KLR 444 emphasized the above position when the court said;

“Where a plea is unequivocal, an appeal against conviction does not lie. Section 348 of the CPC (Cap75) does not merely limit the right of appeal in such cases but bars it completely.”

5. Guided by the said Provision (348 CPC) and the above decision, this court can only consider whether the plea that was recorded by the lower court was equivocal which would therefore render the conviction unlawful.

6. From the record, I note that the plea was read to the accused in a language that he indicated he understood (Kiswahili). He admitted to the charge and later on, the particulars and facts thereof were read to him. He admitted to the facts and was convicted accordingly. The appellant's conviction was therefore proper.

7. Having come to the above conclusion that the plea was unequivocal, I find that the conviction was well founded and I find no reason to interfere with it.

8. After conviction, the appellant was found to be a first offender and the appellant was allowed to mitigate and he prayed for a non-custodial sentence. Before sentencing the court called for a pre-sentence report which was considered. The appellant was subsequently sentenced to serve six(6) years imprisonment.

9. In the end, I find that the appeal is without any merit. The conviction is sound and the sentence lawful. I hereby dismiss the appeal.

Orders accordingly.

JUDGEMENT DATED AND DELIVERED VIRTUALLY THIS 18TH DAY OF MARCH 2025

D. KAVEDZA

UDGE

In the presence of:

Mutuma for the Respondent

Appellant absent

Tonny Court Assistant

