



**NMK v Republic (Criminal Appeal E007 of 2021)
[2023] KEHC 779 (KLR) (2 February 2023) (Judgment)**

Neutral citation: [2023] KEHC 779 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
CRIMINAL APPEAL E007 OF 2021
LW GITARI, J
FEBRUARY 2, 2023**

BETWEEN

NMK APPELLANT

AND

REPUBLIC RESPONDENT

Ingredients of the offence of defilement

The appeal was against the conviction and sentencing of the appellant for the offence of defilement. At the material time, the complainant was a 15 year old that briefly moved into the accused person's home and they had a sexual relationship which led to a pregnancy. The court highlighted the ingredients of the offence of defilement which were that the victim of the offence had to be a minor, that there had to be evidence of partial or complete penetration and that the accused had to have been identified as the perpetrator. On the question of age of the victim, the appellant sought to raise a defence that the victim's physical appearance deceived him. However, the defence was considered to be a mere denial by the court. As for penetration as an ingredient of defilement, the court found that there had been sufficient medical evidence including the pregnancy. The court reiterated that in sexual offences where the victim was a minor, corroboration was no longer necessary as a matter of law.

Reported by Moses Rotich

Criminal Law – sexual offences – defilement - what were the ingredients of the offence of defilement – Sexual Offences Act (cap 63A), section 8(1).

Evidence Law – evidence – corroboration of evidence - corroboration of evidence in sexual offences - whether corroboration of evidence in sexual offences was mandatory where the victim was a minor.

Jurisdiction – jurisdiction of appellate courts – jurisdiction to interfere with the discretion of a trial court during sentencing - when could an appellate court interfere with the discretion of a trial court during sentencing.

Brief facts

The appellant was charged with the offence of defilement. In the alternative, the appellant faced the charge of committing an indecent act with a child. The trial court found the appellant guilty of the main count and sentenced him to serve 15 years' imprisonment. The appellant, being dissatisfied with the decision of the trial



court filed the instant appeal challenging both the conviction and sentence. He raised various grounds of appeal including that; the trial court erred in both matters of law and facts by imposing a harsh and excessive sentence without considering the circumstances in which the offence was committed; and that the trial court took into consideration only the age of the complainant without considering that she did not disclose her age to the appellant.

Issues

- i. What were the ingredients of the offence of defilement?
- ii. Whether corroboration of evidence in sexual offences was mandatory where the victim was a minor.
- iii. When could an appellate court interfere with the discretion of a trial court during sentencing?

Held

1. The first appellate court had a duty to re-evaluate the evidence adduced before the trial court, analyse it, and come up with its own independent finding. The court was however supposed to make allowance for the fact that the trial court had the benefit of seeing and hearing the witnesses to assess their demeanour.
2. In a case of defilement contrary to section 8(1) of the Sexual Offences Act, the evidence produced by the prosecution must prove the ingredients of the offence which were that;
 1. the victim was a minor;
 2. there was penetration, whether partial or complete; and
 3. that the accused was positively identified as the perpetrator.
3. The complainant was born on March 7, 2003 as per her certificate of birth which was produced as an exhibit. That meant that the complainant was a week shy of turning 16 years old at the time that the offence was committed. Under section 8(3) of the Sexual Offences Act, a person committed an offence of defilement where the child was between the age of twelve and fifteen years. It was the age of the child which determined the sub-section under which the offender would be charged. Age was therefore a key ingredient which must be proved. The age of the complainant was proved to the required standard.
4. The complainant was examined by a medical officer and found to be pregnant. The evidence of pregnancy of the complainant was sufficient proof beyond reasonable doubt that penetration took place, whether partial or complete. The fact relating to the broken hymen and that there was penetration were also proved. The complainant stated that the appellant had been her boyfriend since 2017 and that she later got married to him and they lived as husband and wife in the period between February 22, 2019 and February 27, 2019. The complainant stated that she used to have sexual intercourse with the appellant during that period. The complainant's testimony was sufficient to prove that the appellant had sexual intercourse with her since the testimony did not need corroboration as per the proviso under section 124 of the Evidence Act.
5. In sexual offences where the victim was a minor, corroboration was no longer necessary as a matter of law. Corroboration of the evidence of the complainant was not necessary.
6. The prosecution proved beyond reasonable doubt that the appellant defiled the complainant. As such, the appellant's conviction by the trial court was indeed safe in the circumstances of the case. The defence of the appellant was a mere denial. He never raised the issue that the complainant did not disclose her age to him.
7. The age of a child determined the sentence to be imposed upon the offender in cases of defilement. The law on defilement in cases where a child fell in the age bracket of between 12 and 15 years was provided for under section 8(1) as read with section 8(3) of the Sexual Offences Act. From those provisions, the minimum of 15 years was imposed where the child victim was aged between the sixteen and eighteen years as per the provisions of section 8(4) of the Act. On the other hand, a minimum of 20 years was prescribed under section 8(3) for a victim child aged between 12 and 15 years.
8. The complainant was 15 years old as at the date of the commission of the offence. The court however sentenced the applicant to 15 years' imprisonment yet the applicable sentence, considering



the complainant's age, should have been 20 years imprisonment as prescribed under section 8(3) of the Sexual Offences Act. The sentence imposed by the trial court could not be said to be harsh and excessive. The trial court considered all the relevant factors and a social inquiry report. Sentencing was an exercise of discretion by the trial court. An appellate court would not interfere with the discretion of the trial court in sentencing unless it was shown that the sentence was manifestly excessive, took into consideration irrelevant factors or overlooked some material factors, or acted on wrong principles.

9. There was no reason to interfere with the sentence of 15 years' imprisonment imposed by the trial court. Considering section 333(2) of the Criminal Procedure Code which was couched in mandatory terms the sentence should run from February 27, 2019, when the appellant was arrested, so as to factor in the time that the appellant spent in custody while undergoing trial.

Appeal dismissed.

Orders

Deputy Registrar to issue an amended committal warrant and serve it on the officer in-charge of the prison where the appellant was serving sentence.

Citations

Cases

Kenya

1. *Gacheru, Bernard Kimani v Republic* Criminal Appeal 188 of 2000; [2002] KECA 94 (KLR) - (Explained)
2. *JWA v Republic* Criminal Appeal 100 of 2013; [2014] KECA 484 (KLR) - (Explained)
3. *Kasono, Kaingu Elias v Republic* Criminal Appeal 54 of 2010 - (Explained)
4. *Kiilu & another v Republic* Criminal Appeal 113 of 2001; [2005] KECA 335 (KLR) - (Explained)
5. *Kogo, Shadrack Kipkoech v Republic* Criminal Appeal No 253 of 2003 - (Explained)

Regional Courts

1. *Ogolla s/o Owuor v Republic* (1954) EACA 270 — Explained
2. *Okeno v Republic* [1972] EA 32 -(Applied)

Statutes

Kenya

1. Criminal Procedure Code (cap 75) section 333(2)- (Interpreted)
2. Evidence Act (cap 80) section 124- (Interpreted)
3. Oaths and Statutory Declarations Act (cap 15) section 19- (Interpreted)
4. Penal Code (cap 63) section 38- (Interpreted)
5. Sexual Offences Act (cap 63A) section 8(1)(3); 11(1)- (Interpreted)

Texts

1. The Judiciary of Kenya (2016), Sentencing Policy Guidelines (Nairobi; The Judiciary of Kenya)

Advocates

None mentioned

JUDGMENT

1. The appellant was charged with the offence of defilement contrary to section 8(1)(3) of the [Sexual Offences Act](#) (No 3 of 2006). In the alternative, the appellant faced the charge of committing an indecent act with a child contrary to section 11(1) of the [Sexual Offences Act](#) (No 3 of 2006) (the "Act").
2. The trial court found the Appellant guilty of the main count and sentenced him to serve fifteen years' imprisonment.



3. The appellant, being dissatisfied with the decision of the trial court filed the instant appeal challenging both the conviction and sentence *vide* the Petition of Appeal dated January 26, 2021. He raised the following grounds of appeal:
 - i. That the learned magistrate erred in both matters of law and facts by imposing a harsh and excessive sentence without considering the circumstances in which the offence was committed.
 - ii. That the learned trial magistrate erred in both matters of law and facts by imposing a harsh and excessive sentence upon the appellant without taking into consideration that he was deceived by the victims physical appearance.
 - iii. That the learned trial magistrate erred in both points of law and facts by disregarding the appellant's defense without giving cogent reasons.
 - iv. That the learned trial magistrate erred in both points of law and facts by imposing a harsh and excessive sentence without considering the victim's report.
 - v. That the learned trial magistrate erred in both matters of law and facts by taking into consideration only the age of the complainant without considering that she did not disclose her age to the appellant hence contravened section 8(1)(5) of the [Sexual Offences Act](#).
4. The appeal was canvassed by way of written submissions. The appellant filed his submissions on February 23, 2022 while the respondent filed his submissions on April 28, 2022. Hereunder is a summary of the respective submissions of the parties.

Appellant's Submissions

5. It was the submission of the appellant that the sentence imposed upon him was harsh considering that he was arrested at a youthful age and a first offender. According to him, the complainant herein was the same age as the appellant and they were amicable friends and not strangers. He stated that the complainant willingly consented to having a relationship with the appellant and that from her appearance, it could be presumed that she was an adult.
6. The appellant further faulted the trial court for not taking into account the period that he had spent in custody while undergoing trial. The appellant thus prayed for this court to discharge him unconditionally or, in the alternative, to impose a lenient sentence.

Respondent's Submissions

7. In opposing the appeal, the respondent submitted that the sentence meted out on the appellant is as provided under section 8(3) of the [Sexual Offences Act](#) which is couched in Mandatory terms. As such, it was submission of the respondent that in the circumstances, there is no other sentence that can be meted out on the appellant.
8. The above notwithstanding, the respondent conceded that the time that the appellant spent in custody during the pendency of his case before the lower court ought to be deducted from the sentence that was meted out against him.

Issue for Determination

9. From the appellant's grounds of appeal and the respective submissions of the parties, the main issues for determination by this court are:
 - i. Whether the appellant's conviction was safe.



- ii. Whether the sentence meted against the appellant was excessive.
- iii. Whether the trial court took into account the time the appellant spent in custody while undergoing trial and if not, which sentence will be appropriate in the circumstances?

Analysis

10. This is a first appeal. The law is well settled that the first appellate court has a duty to re-evaluate the evidence adduced before the trial court, analyse it, and come up with its own independent finding. The court is however supposed to make allowance for the fact that the trial court had the benefit of seeing and hearing the witnesses to assess their demeanour. In *Kiilu & Another v Republic* [2005] 1KLR 174 the Court of Appeal stated that:

- “1. An appellant on a first appeal is entitled to expect the evidence as a whole to be submitted to a fresh and exhaustive examination and to the appellate Court’s own decision on the evidence. The first appellate Court must itself weigh conflicting evidence and draw its own conclusions.
2. It is not the function of a first appellate court merely to scrutinize the evidence to see if there was some evidence to support the lower Court’s findings and conclusions; Only then can it decide whether the magistrate’s findings should be supported. In doing so, it should make allowance for the fact that the trial Court has had the advantage of hearing and seeing the witnesses.”

See also *Okeno v Republic* [1972] EA 32 on the same subject.

a. Whether the appellant’s conviction was safe.

11. In the main count, it was alleged that on diverse dates between 22nd and February 27, 2019 at [particulars withheld] Village in Tharaka South Sub-County within Tharaka Nithi County, the appellant intentionally caused his penis to penetrate the vagina of a child aged 15 years. The appellant pleaded not guilty to the charge and the matter proceeded to full trial.
12. PW1 was the victim herein. She testified that she was 16 years old having been born on March 7, 2003. She stated that she knew the accused in the dock and had known him since 2017. She stated that she moved in with the accused for 5 days in February 2019 when they used to have sexual intercourse. They were then found out on February 27, 2019 by the Assistant Chief and police and they were subsequently arrested. PW1 was then escorted to Marimanti hospital for medical examination where she was found to be pregnant.
13. PW2 was Lilian Wahu, the medical officer who examined PW1 on March 1, 2019. According to her, PW1 gave a history of being defiled by a person known to her under the false belief that the person she was having sex with would marry her. PW2 examined the *genitalia* of PW1 and observed that her hymen was broken though not freshly. She also noticed a whitish discharge on her vaginal wall. A pregnancy test was conducted and PW1 was discovered to be pregnant.
14. PW3 was Patrick Nyaga Muchege, an assistant chief in Mwanyani Sub-location. He testified that sometime in the month of February 2019, PW1’s mother, went to Miomponi AP Camp and reported that the whereabouts of her daughter (PW1) were unknown. On February 23, 2019, she received news from the villagers in [particulars withheld] in Mwanyani sub-location that a young girl who appeared to be of school-going age had been seen at the home of the accused. PW3 made enquiries into the matter and confirmed that PW1 was indeed living with the accused. PW3 then reported the matter



- to Turima Tweru AP Camp for further investigations. PW1 and the accused were later arrested and escorted to Turima Tweru AP Camp.
15. PW4 was APC Timothy Njeru Ndathe, the arresting officer. It was his testimony that on the material day, he was on duty and in the company of his colleagues APC Musyimi when PW3 went and reported that the Appellant was living with a school girl in [particulars withheld] village. PW3 then led them to the appellant's house where they found the complainant. According to PW4, they interviewed the complainant and she confirmed that the appellant had taken her there as a wife. They took her and as they were leaving, they met the appellant and that is when they arrested him. PW4 stated that they also interviewed the Appellant and he stated that the complainant was his wife.
 16. PW5 was PC Emmaculate Kilonzo from Marimanti Police Station. He was the investigating officer in this case. He recalled that on the material day at about 11.59 AM, he was summoned by the OSC who briefed him about the present case. By this time, the appellant and the complainant were at Turima Tweru Police Post. In the company of his colleague, PC Mohamed, PW5 proceeded to Turima Tweru Police Station where the complainant was handed over to them. He commenced investigations and recorded the witness statements. The following day, PW5 escorted the complainant to Marimanti District Hospital and the appellant was then arraigned in court. He stated that upon the examination of the complainant, she was found to be pregnant.
 17. PW6 was the complainant's mother. She recalled that between 22nd and February 27, 2019, her daughter, the complainant herein, dropped out of school and went to live with the appellant as his wife. The complainant was then in Standard 7. PW6 reported the matter to the local administration, that is, the area chief and assistant chief. The complainant was then found at the appellant's home and the two were arrested. PW6 was then called to go to Turima Tweru Police Post where the complainant and the appellant had been taken. They were then transferred to Marimanti Police Station and it is there that PW6 recorded her statement. This marked the end of the prosecution's case.
 18. The appellant was then put on his defence. He testified as DW1. It was his testimony that on the material day, he left his home and went to open his businesses at Kaangutu Market. That as he was serving his customers, he received a call from his mother asking him to go back home and look after their cows. That he proceeded home and later returned to Kangutu Market. That later on, he saw the area chief with police officers from Turima Tweru Post who arrested him and took him to the said post. That he was informed that he had been arrested for defiling and marrying a school girl, which allegations he denied stating that he did not know the girl. It was further his testimony that the area chief had a grudge against the appellant's family as he had married the sister to the appellant's father but they divorced. According to the appellant the said grudge also existed because the area chief and his divorced wife still had property disputes over the properties they had brought together.
 19. The learned trial magistrate after evaluating the evidence came to the conclusion that it supported the main charge of defilement. He found the appellant guilty and convicted him.
 20. In a case of defilement contrary to section 8(1) of the *Sexual Offences Act*, the evidence produced by the prosecution must prove the ingredients of the offence which are:
 - i. That the victim was a minor
 - ii. That there was penetration, whether partial or complete,
 - iii. That the accused was positively identified as the perpetrator.
 21. Below is an analysis of the aforesaid elements vis-à-vis the evidence adduced by the prosecution.



Age of the victim

22. The complainant herein was born on March 7, 2003 as per her certificate of birth bearing the serial No 36xxxx which was produced as an exhibit. This means that the complainant was a week shy of turning 16 years old at the time that the offence was committed. Under section 8(3) (*supra*) a person commits an offence of defilement where the child is between the age of twelve and fifteen years. It is the age of the child which determines the sub-section under which the offender will be charged. Age is therefore a key ingredient which must be proved. The age of the complainant was proved to the required standard. In the case of *Kaingu Elias Kasono v Republic* CA Malindi Criminal Appeal No 54/2010 the court stated that “the age of the victim of a sexual Assault under the [sexual offences Act](#) is a critical component. It forms part of the charge which must be proved in the same way as penetration in cases of rape and defilement. It is therefore essential that the same be proved by credible evidence for sentence to be imposed upon conviction will depend on the age of the victim.”

Penetration

23. On the issue of whether there was penetration, the complainant was examined by a medical officer and found to be pregnant. The evidence of pregnancy of the complainant is sufficient proof beyond reasonable doubt that penetration took place, whether partial or complete. The fact of the broke hymen also proved that there was penetration

Identification of the Perpetrator

24. The complainant stated that the appellant had been her boyfriend since 2017 and that she later got married to him and they lived as husband and wife in the period between February 22, 2019 and February 27, 2019. The complainant stated that she used to have sexual intercourse with the appellant during that period. The complainant’s testimony is sufficient to prove that the appellant had sexual intercourse with her since the said testimony does not need corroboration as per the proviso under section 124 of the [Evidence Act](#) which state:

“Notwithstanding the provisions of section 19 of the [oaths and Statutory Declaration Act](#), where the evidence of the victim admitted in accordance with that section on behalf of the prosecution in proceedings against any person for an offence, the accused shall not be liable to be convicted on such evidence unless it is corroborated by other evidence in support thereof implicating him.

Provided that where in a criminal case involving a sexual offence the only evidence is that of the alleged victim of the offence, the court shall receive the evidence of the alleged victim and proceed to convict the accused person, if, for reasons to be recorded in the proceedings, the court is satisfied that the alleged victim is telling the truth.”

25. There is a long list of decisions affirming the position that in sexual offences where the victim is a minor, corroboration is no longer necessary as a matter of law. In the case of [JWA v Republic](#) [2014] eKLR, the Court of Appeal observed:-

“We note that the appellant was charged with a sexual offence and the proviso to section 124 of the [Evidence Act](#), clearly states that corroboration is not mandatory. The trial court having conducted a *voire dire* examination of PW1 and being satisfied that the complainant was a truthful witness, we see no error in law on the part of the High Court in concurring with the findings of the trial magistrate.”



26. In the present case, corroboration of the evidence of the complainant was not necessary as the trial court noted that:

“The complainant was quite clear, candid and consistent in her testimony.”

He also found that the testimony was credible and the complainant did not appear to have been coached to lie to court.

27. From the foregoing, it is my view that the prosecution did prove beyond reasonable doubt that the appellant defiled PW1. As such, the appellant’s conviction by the trial court was indeed safe in the circumstances of the case. The defence of the appellant was a mere denial. He never raised the issue that the complainant did not disclose her age to him. Section 8(1)(5)(6) of the *Sexual Offences Act* provides:

- “(1) A person who commits an act which causes penetration with a child is guilty of an offence termed defilement.
- (5) It is a defence to a charge under this section if - (a) it is proved that such child, deceived the accused person into believing that he or she was over the age of eighteen years at the time of the alleged commission of the offence; and (b) the accused reasonably believed that the child was over the age of eighteen years.
- (6) The belief referred to in subsection (5)(b) is to be determined having regard to all the circumstances, including any steps the accused person took to ascertain the age of the complainant.”

The section requires that an accused raises this defence at his trial. It is only after the defence has been raised that the court will consider the defence, the circumstances and the steps which the appellant took to ascertain the age of the complainant. This is because when the accused opts to rely on the defence, the evidential burden shifts on him to which satisfy the conditions under the section. It is a defence which is available to an accused person. He should lay a basis for that defence during the trial. The appellant did not raise the defence during the trial. It cannot therefore be considered at this stage.

Sentence

28. The age of a child determines the sentence to be imposed upon the offender in cases of defilement. The law on defilement in cases where a child falls in the age bracket of between 12 and 15 years is provided for under section 8 (1) as read with section 8(3) of the *Sexual Offences Act*. Section 8(1) of the Act provides as follows:

- “(1) A person who commits an act which causes penetration with a child is guilty of an offence termed defilement.
- (2) A person who commits an offence of defilement with a child aged eleven years or less shall upon conviction be sentenced to imprisonment for life.
- (3) A person who commits an offence of defilement with a child between the age of twelve and fifteen years is liable upon conviction to imprisonment for a term not less than twenty years.
- (4) A person who commits an offence of defilement with a child between the age of sixteen and eighteen years is liable upon conviction to imprisonment for a term not less than fifteen years.”



29. From the above provisions, it is clear that the minimum of 15 years is imposed where the child victim is aged between the sixteen and eighteen years as per the provisions of section 8(4) of the Act. On the other hand, a minimum of twenty years is prescribed under section 8(3) of the Act for a victim child aged between twelve and fifteen years.
30. In this case, the trial court correctly noted that the complainant herein was 15 years old as at the date of the commission of the offence. The court however sentenced the applicant to 15 years' imprisonment yet the applicable sentence, considering the complainant's age should have been 20 years as prescribed under section 8(3) of the Act.

The sentence imposed by the learned trial magistrate cannot be said to be harsh and excessive. The learned trial magistrate considered all the relevant factors and a social inquiry report. It is trite that sentencing is an exercise of discretion by the trial judge. The law is well established by a line of authorities from this court and the Court of Appeal that an appellate court will not interfere with the discretion of the trial court in sentencing unless it is shown that the sentence was manifestly excessive, took into consideration irrelevant factors or overlooked some material factors, or acted on wrong principles. This stated in the case of *Ogolla s/o Owuor v Republic* [1954] EACA 270.

“The court does not alter a sentence unless the trial Judge has acted upon wrong principles or overlooked material factors.”

In *Shadrack Kipkoech Kogo v Republic* CA, Criminal Appeal No 253/2003, Eldoret, the court stated-

“Sentence is essentially an exercise of discretion by the trial court and for this court to interfere it must be shown that in passing the sentence. The sentencing court took into account an irrelevant factor or that a wrong principle was applied or that short of these the sentence itself was so excessive and therefore an error of principle, must be interfered with.”

In *Benard Kimani Gacheru v Republic* [2002] eKLR, the Court of Appeal stated that, ‘sentence is a matter that rests in the discretion of the trial court and must depend on the facts of each case.’

The learned trial magistrate considered the probation officers report which he found was not in favour of a none custodial sentence. That the appellant committed the offence while out on bond for a similar offence. He concluded that the appellant is a habitual sexual predator who deserved a deterrent sentence. Taking all these factors which the learned trial magistrate took into consideration, I find that they were relevant in determining the sentence. The trial magistrate proceeded to exercise discretion and passed a sentence which was below the mandatory minimum provided under the Act. I find the sentence was not manifestly harsh. I have no reason to interfere with the exercise of discretion by the trial magistrate. This ground must therefore fail.

31. The appellant further submitted that in sentencing him, the trial court erred by not taking into consideration the time he had spent in custody while undergoing trial. Section 333(2) of the [Criminal Procedure Code](#) provides as follows:

“Subject to the provisions of section 38 of the [Penal Code](#) (cap 63) every sentence shall be deemed to commence from, and to include the whole of the day of, the date on which it was pronounced, except where otherwise provided in this Code.

Provided that where the person sentenced under subsection (1) has, prior to such sentence, been held in custody, the sentence shall take account of the period spent in custody.”



32. This position is also contained under Clauses 7.10 and 7.11 of the Judiciary *Sentencing Policy Guidelines* which state:

“7.10 The proviso to section 333(2) of the *Criminal Procedure Code* obligates the court to take into account the time already served in custody if the convicted person had been in custody during the trial. Failure to do so impacts on the overall period of detention which may result in an excessive punishment that is not proportional to the offence committed.

7.11 In determining the period of imprisonment that should be served by an offender, the court must take into account the period in which the offender was held in custody during the trial.”

33. The appellant therein was arrested on February 27, 2019. He was failed to meet the bail/bond conditions set by the trial court and such remained in custody from February 27, 2019 until August 27, 2020 when the trial court delivered its judgment in this matter. This means that the appellant spent 1 year and 6 months in custody while undergoing trial. As such, this time ought to have been considered by the trial court during sentencing.

34. The upshot of the above, in my view I find no reason to interfere with the sentence of 15 years' imprisonment imposed by the learned trial magistrate. Considering section 333(2) of the *Criminal Procedure Code* which is couched in mandatory terms the said sentence should run from February 27, 2019, when the appellant was arrested, so as to factor in the time that the appellant spent in custody while undergoing trial.

Conclusion:

25. The appeal is without merits and is dismissed. The Deputy Registrar to issue an amended committal warrant and serve it on the officer in -charge of the Prison where the appellant is serving sentence.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 2ND DAY OF FEBRUARY 2023.

L.W. GITARI

JUDGE

