



REPUBLIC OF KENYA



KENYA LAW
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**Gitari v Republic (Criminal Appeal 38 of 2019)
[2023] KEHC 1798 (KLR) (16 March 2023) (Judgment)**

Neutral citation: [2023] KEHC 1798 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERUGOYA
CRIMINAL APPEAL 38 OF 2019**

**FR OLEL, J
MARCH 16, 2023**

BETWEEN

JACKSON WACHIRA GITARI APPELLANT

AND

REPUBLIC RESPONDENT

*(Being appeal against judgment conviction and sentence delivered on 6th June 2019
at Wang'uru SPM's court vide SO case no.6 of 2018 before Hon G.M Mutiso (SPM))*

JUDGMENT

Background

1. The appellant herein Jackson Wachira Gitari was charged with the offence of defilement contrary to Section 8(1) as read with Section 8(2) of the Sexual Offence Act no.3 of 2006. The particulars of the offence were that between the 3rd day of February 2018 and 5th day of February 2018 in Mwea east sub county within Kirinyaga County, intentionally caused your penis to penetrate the vagina of JNK a child aged 12 years.
2. The appellant also faced a second count of committing an indecent with a child contrary to Section 11(1) of the Sexual Offence Act no. 3 of 2006. The particulars of the offence were that on diverse dates between 3rd day of February 2018 and 5th day of February 2018 in Mwea East Sub County within the county of Kirinyaga intentionally touched the breast of JNK a child aged 12 years with his hands.
3. The appellant pleaded not guilty. The prosecution called five (5) witnesses and after close of their case the appellant gave unsworn evidence. The trial magistrate did consider the evidence tendered and found guilty the appellant of the first count and was sentenced to serve 20 years imprisonment. Being



dissatisfied with the judgement, conviction and sentence, the appellant filed this appeal setting out the following amended grounds of appeal.

- a. That the trial magistrate erred in both law and fact by convicting the appellant yet overlooked that the testimony of PW1 and PW2 were very contradicting. The testimony of PW1 was well nurtured by the mother to hold some weight on this charge. PW1 testified to be defiled in the early hours of that fateful day while that of PW2 was that she was accompanied by PW1 to the site where she was buying grass.
- b. That the trial magistrate erred in both law and fact by only considering the prosecution assumptions yet the same veracity, credibility and was of low evidentiary content and jeopardized the mechanism of justice of the Appellant.
- c. That the Hon trial magistrate erred in law and facts by convicting and sentencing the appellant without re-analysing that the prosecution had failed to prove this case beyond reasonable doubt as per the requisite of sec 2(ii) of the SOA no3/2006 hence creating the benefit of doubt. In reference to beyond reasonable doubt, it was not well established and could not articulate the circumstance's surrounding the commission of the offence and the sworn testimony of PW1, PW2 and PW3.
- d. That the Hon trial magistrate erred in law by invoking sec 24 Cap 80 laws of Kenya yet overlooked that the medical evidence exonerated the appellant of any misdemeanour.
- e. That the appellant was a first offender and the appellants perceives that the long sentence imposed on him will result in untold suffering since the charges were tailor made.
- f. That the Hon trial magistrate erred in law and facts by convicting the appellant with a defective charge sheet and without taking into account the gross contradiction in the testimony of PW1 and PW2. The appellant feels that the evidence tabled by the prosecution was substandard to attract the charge and to hold such punitive sentence of 20 years imprisonment.

Facts at trial

4. PW1 JNK undertook voire dire examination and gave sworn testimony. She testified that she was a student at [Particulars Withheld] primary school and was in class 4. She knew the accused as someone she used to see in the estate. She knew him as Wachira. On 3/2/2018 she went to inspect hay at the store and guard it from being eaten by cattle. She met the accused, who held her and took her to his house where he did "bad things" to her. She said that the accused removed her trousers and "did bad things to me". This was on the accused bed. She asserted that the defilement went on the whole night. She tried calling for help but the accused would shut her mouth by force.
5. The witness further stated one Nyaboke arrived in the house at 9pm and they all slept on the same bed, before Nyaboke left in the morning. PW1 JNK was detained in the appellants house for a second night and it was her testimony that the appellant continued to defile her the whole night again until her mother came for her accompanied by two police officers. They went to the police camp and she was taken to hospital. She was able to identify the accused on the dock. In cross examination PW1 JNK confirmed that the appellant would visit their house. She said Nyaboke was her friend but never told



- her that she had been chased away from school nor did she tell her mother that she would spend the night at Nyaboke's place.
6. PW1 JNK further stated that the appellant did not go to work, but stayed at home the whole day and is the one who held her and defiled her. She further stated that she was not lying and was not coached by her mother to lie as suggested.
 7. PW 2 AK Mbale testified that PW1 JNK was her daughter who was aged 12 years. On 3/2/2018 she sent her daughter, to go and guard her hay and to stop cows from eating the same. She too went to work at the rice field, cutting more hay. When she returned in the evening, she did not find her daughter. She called Pastor Peninah and reported that her child was missing. The following day they searched for PW1 JNK the whole day and did not find her. The following day which was a Monday she went to the home of Maina Mark who had said he had seen PW1 JNK at the window of a certain house. She was shown the house but feared going there alone. The house was opposite that of Maina Mark.
 8. She sought advice from Pastor Peninah. They went and sort assistance from two police men. They proceeded to the appellant's house, knocked on the door of the said house and it was opened by the appellant. Inside the said house, she saw the complainant still asleep in bed with Nyaboke. They had covered themselves with a bedsheet. The accused was arrested and Nyaboke was told to go back. She further stated that she had seen the accused around the estate and was a person known to her. The appellant was arrested and PW1 JNK was taken to hospital. She identified the medical treatment notes and also the birth notification and clinic card showing that PW1 JNK was born ON 9/10/2006. In cross examination, she stated that the appellant detained her child for three days and did not know if her daughter used to visit Nyaboke and did not know how her child ended up at the appellant's house. All she knew is that she found her child at the appellant's house.
 9. PW3 APC John Ngehia testified that he was stationed at Thiba Ap post. On 6/2/2018 at 6.00am while at the camp with APC Aboike one AK came and reported that her daughter JNK had been missing from 3/2/2018 and had discovered that she was living with the appellant. He accompanied her to the appellant house, which she identified and they knocked on the door. The appellant opened the door. They found the child JNK sleeping on the same bed with a girl called Nyaboke and it is also on the same bed that the appellant slept on. They arrested the appellant and the child and took them to Wang'uru police station. In cross examination he confirmed to the appellant that he did not find him having sex with the child and did not know if Nyaboke was his wife.
 10. PW4 Dr Peter Oliam stated that he was a medical officer Registration No A9649 and used to work at Kimbimbi sub county hospital, but had been transferred to Sagana sub county Hospital. On 6/2/2018 he examined PW1 JNK who had a history of being defiled. On examination she had no injuries on the head and neck but the labia majora and minora were swollen, she had a ruptured hymen and the vaginal wall was inflamed. She also had a smell discharge and HVS revealed numerous yeast cells indicative of fungal infection. No bacteria or spermatozoa was seen. He concluded that the victim had been defiled. He filled the P3 form on 6/2/2018. He also produced the treatment notes and P3 as Exhibit 1 and 2
 11. PW5 Faith Maloba stated that she was the investigating officer assigned to handle this case. One Ann Kaiyua had reported that her daughter JNK was missing from 3/2/2018. On 6/2/2018 she brought her daughter to the police station and upon interviewing PW1 JNK, she revealed that the appellant took her to his home on that day at 9.00 p.m. while at the appellants house the appellant defiled her. There was another lady in the said house but she appeared to be a person with mental disability. The said lady slept on the chair and left the following day. The appellant continued to defile her and detained her by tie her hands and legs.



12. On 5th February 2018, the accused cooked until 9.00pm and thereafter proceeded to have sex with the complainant and the other lady. PW1 JNK was rescued by her mother accompanied by Administration policemen. The other lady was Claudia Nyaboke, when interviewed she was found to be a person with mental disability and was referred for psychiatrist help at Embu level 5 hospital. The witness produced the complainant's child health card as Exhibit 4 and Claudio Nyaboke psychiatrist report as Exhibit 5. She also identified the accused on the dock.
13. The appellant was put on his defence and opted to give unsworn evidence. He stated that he resided at Brisco village and was a casual labourer. In February 2018, he went to work at 8am and arrived back home at 9.30pm. He took a bath and took tea. He saw PW1 JNK, lying on the sofa and his wife told him that they were accommodating the child again. They slept and the following day they were arrested. During the arrest PW2 was present and they discovered that he was sleeping with his wife. PW2 also beat up her daughter PW1. The appellant stated that the statements by the complainants and her witnesses were false, PW2 had mistreated PW1 and the charges levelled against him were framed up.
14. In his considered judgment the trial magistrate analysed all the facts and convicted the appellant of the offence charged. He was sentenced to twenty (20) years imprisonment as provided under section 8(3) of the [Sexual Offences Act](#) no.3 of 2006.

Submissions

15. The appellant submitted that the trial magistrate was wrong to rely on shoddy investigations, inconsistent evidence full of contradiction, inconsistencies and also fell in error in relying on a single witness who was neither availed in court as a witness in order to ascertain what transpired. Further he submitted that the court relied on hearsay which was weak and worthless. He urged the court to rely on the case of Ramathan Ahmed vs Republic (1955) at page 10
16. The appellant also submitted that the magistrate erred in failing to appreciate that a vital witness was not called and no explanation given for the same and that the prosecution did not discharge its burden of proof beyond reasonable doubt. This was more so because no spermatozoa was found on the complainant after medical examination
17. The state too did file its submission and stated that the conviction was solid and supported by facts provided by the five witnesses who testified. The evidence was not doubtful and the prosecution had discharged its burden of proof and left no gaps that could raise any doubt. The prosecution proved all the ingredients namely age of the child, identification the perpetrator and penetration. They also stated that conviction in a defilement case can be based on the testimony of a single witness and that there is no rule of law or evidence which says anything to the contrary so long as the sole eye witness passed the test of reliability, the court could base its conviction on his testimony alone. see Republic vrs Anil Phukan
18. They further submitted that the medical evidence was indicative of the facts that the minor had been defiled as the labia majora and minora were swollen and the minor had inflamed vaginal wall with smelly discharge. The doctors finding was that the minor had been defiled. Finally they stated that the charge sheet was not defective as it contained all the information which specified the offence. The appellant also did not show as to how the charge sheet was defective. The respondent prayed that the appeal be dismissed.



Analysis and Determination

19. It is now well settled, that a trial Court has a duty to carefully examine and analyze the evidence adduced a fresh and come to its own conclusion, while at the same time noting that it did not have the advantage of seeing the witnesses and observing their demeanor See *Okeno-Vrs- Republic* 91972)EA 32 & *Pandya Vs. Republic* (1975) EA 366.
20. Further this being first Appellate Court, it must itself also weigh conflicting evidence and draw its own conclusion (*Shantilal M. Ruwala-Vrs-R* (1975) EA 57. Where it was stated that it is not the function of the first appellate court to merely scrutinize the evidence to see if there was some evidence to support the lower Court finding and conclusion, it must make its own findings and draw its own 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 made the advantage of hearing and seeing the witnesses.

This being the first appeal, this court is expected to re-evaluate the evidence tendered before the trial court and to come up to its own logical conclusion by taking into account the fact that it did not have the advantage of seeing and hearing the witnesses and their evidence and/or see their demeanor. This court is guided by *Okeno Vs. Republic* (1927)E.A 32 & *Pandya Vs. Republic* (1975) EA 366.
21. Also in Peter's vrs Sunday Post(1958) E.A. 424 it was said that it is not the function of the first appellat court merely to scrutinize the evidence to see if there was some evidence to support the lower courts finding and conclusion: it must make its own findings and draw its own conclusions. Only then can it be decided whether the magistrate findings should be supported. In doing so it should make allowance for the fact that the trial court had the advantage of hearing and seeing witnesses.
22. The ingredient's provided for under section 8(1) of the *Sexual Offences Act* No.3 of 2006 and which must be proved for a conviction to ensue are Age of the victim (must be a minor), penetration and proper identification of the perpetrator.(see *George Opondo Olunga Vs. Republic* (2016)eKLR).
23. For purposes of this appeal this court will merge ground's 1, 2, and 3 of the grounds of appeal as they all relate the evidence of PW1, PW2, and PW3 and will then consider the other grounds separately.

Burden of Proof

24. The appellant submitted that the evidence adduced was inconsistent, unreliable and of low evidentiary value, amounted to hearsay and did not prove beyond reasonable doubt that indeed it is the appellant who defiled PW1 JNK .
25. PW1 JNK recognized the appellant as a person she see's in the estate and knew him as "wachira". She was categorical that the appellant took her to his house and did "bad things" to me. She stated that,

"The accused took off his trouser then took off mine and did "bad things to me" we were seated on the bed when the accused defiled me. He did bad things to me the whole night. The accused took out his "thing" and inserted it into my vagina. The accused did that to me the whole night."

Further the witness stated that;

"The accused did not go anywhere the whole night. Nyaboke unusually came home at 9pm.Nyaboke did not say anything to me. On the second day the accused had sex with me until mother came."



26. In cross examination, the witness stated that she was not lying to court as suggested and reaffirmed that it was the appellant who held her and defiled her. PW2 AKM testified that her child disappeared from 3/2/2018, when she assigned her a duty to go guard hay, from being eaten by cows. After frantic search for three days, she was told that PW1 JNK had been seen inside the house of the appellant. Accompanied by policemen she went to the appellant house and indeed her daughter was found therein. The fact that PW1 JNK was found inside the house of the appellant was confirmed by PW3 APC John Ngehia who arrested the appellant and PW1 JNK and took them to Wang'uru police station.
27. PW4 Dr Peter Oliam did confirm that on 6/2/2018 he examined PW1 JNK and his findings was that the Labia majora and minora were swollen, she had a ruptured hymen, inflamed vaginal wall and smelly vaginal discharge. HVS test revealed numerous yeast cells which were indicative of fungal infection. The doctor produced the P3 form and medical treatment notes as Exhibits. The investigating officer Faith Maloba also confirmed that PW1 JNK told her that she was defiled severally by the appellant, who would tie both her hands and legs to confine her. She produced the complainant's birth notification showing that PW1 was born on 9/10/2006. Further she produced a psychiatrist report showing that Claudio Nyaboke had mental disability.
28. The evidence as presented did conclusively prove that it was the appellant who defiled the minor as she knew him and recognized him as a person she knew from where they resided. She recognized him by name "wachira". Secondly there was penetration was sufficiently proved by PW1 JNK evidence and the medical evidence tendered.
29. The appellant argued that the medical evidence was not sufficient as no spermatozoa was found on the complainant. It is now trite law that medical evidence is not only way of proving the offence of defilement. The Court in the case of *George Kioji- Vrs- Republic* Criminal Appeal no. 270 of 2022 (unreported) held
- “Where available, medical evidence arising from examination of the accused and linking him to the defilement would be welcome. We however hasten to add that such medical evidence is not mandatory or even the only evidence upon which an accused person can be properly convicted for defilement. The Court can convict if it is satisfied that there is evidence beyond reasonable doubt that defilement was perpetrated by the accused”.
30. This position was fortified in the case of *Mark Oirori Moses-Vs-Republic* (2013)eKLR the Court stated that;
- “Many times, the Attacker does not fully complete the sexual act during the commission of the offence. That is the main reason why the law does not require that evidence of spermatozoa be availed so long as there is penetration whether on the surface, the ingredients of the offence is demonstrated, and penetration need not be deep inside the girls organ.
31. Therefore, it is not necessarily a must that a medical evidence be availed to prove penetration, but as long as there is evidence that there was even partial penetration, only on the surface the ingredients of the offence is demonstrated.
32. PW1 JNK age too was sufficiently proved by the birth notification and health card (Exhibit 4 & 5). Having proved by evidence all the necessary ingredients of the charge the prosecution discharged their burden and it was upon the appellant to disprove the same by contrary evidentiary proof.



Uncorroborated Unsworn Evidence of PW I and other witnesses & Material Discrepancy

33. The appellant did raise other issues on his grounds of appeal that the evidence presented was uncorroborated and was hearsay evidence made without any probative value.
34. In *JWA –Vs-Republic* (2014) eKLR the Court of Appeal observed that;
- “we note that the appellant was charged with a sexual offence and the provision of section 124 of the *Evidence Act* clearly states that corroboration is not mandatory. The trial Court having conducting voire dire examination of PW I, 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 finding of the trial Magistrate.
35. Section 143 of the *Evidence Act* Cap 80 provides “No particular number of witnesses shall, in the absence of any provision of law to the contrary be required for proof of any fact”.
36. Having independently re-evaluated the evidence adduced there is no doubt that the prosecution established its case as against the appellant. Both PW1 to PW-IV did not give doubtful evidence. Their evidence corroborated and established a cogent flow of evidence showing that PW1 was defiled. Her gentila was swollen and inflamed and the doctor concluded that she had been defiled.

Material Discrepancy capable of unsettling the Judgment

37. The law as regards the issues of contradiction and discrepancies is very clear. It is trite law that inconsistencies unless satisfactorily explained would usually, but not necessarily result in the evidence of a witness being rejected.(see Uganda Vrs Rutaro (1976) HCB ; Uganda Vs George w. Yiga (1979) HCB 217). In trying to shade light as to why there might be minor discrepancies between two witnesses testifying on the same case, the high court of Kenya in Philip Nzaka watu V Republic (2016) CR APP 29 OF 2015, had this to say:

“The first question in this appeal is whether the prosecution case was riddled with contradiction and inconsistencies of the magnitude that would make the conviction of the appellant unsafe. It cannot be gain said that found a conviction in a criminal case, where the trial court has to be satisfied of the accused person’s guilt beyond reasonable doubt, the prosecution evidence must be cogent, credible and trustworthy. Evidence that is obviously self-contradictory in material particulars or which is a mere amalgam of inconsistent version of the same event, differing fundamentally from one purported eyewitness to another, cannot give the assurance that a court needs to be satisfied beyond reasonable doubt.

However, it must be remembered that when it comes to human recollection, no two witnesses recall exactly the same thing to the minutest detail. Some discrepancies must be expected because human recollection is not infallible and no two people perceive the same phenomena exactly the same way. Indeed, as has been recognized in many decisions of this court, some inconsistencies in evidence may signify veracity and honesty, just as unusual uniformity may signal fabrication and coaching of witnesses. Ultimately, whether discrepancies’ in evidence render it believable or otherwise must turn on the circumstance’s of each case and the nature and extent of the discrepancies’ and inconsistencies’ in question.”



38. In the case of Josph Mwangi vrs Republic Criminal Appeal No 73 of 1993 it was held, inter alia that;

“In any trial there are bound to be discrepancies. An appellate court in considering those discrepancies, must be guided by the wording of section 382 of the criminal procedure code viz, whether such discrepancies are so fundamental as to cause prejudice to the appellant or they are inconsequential to the conviction and sentences.”

39. Finally it is also important to examine the nature and meaning of the word contradiction. In the decision of court of appeal of Nigeria the case of David Ojeabuo Vs Federal Republic of Nigeria (2014) LPELR-22555(CA) Adamu JA; Orji-Abadua JA; & Abiru JA had this to say;

“Now, contradiction means lack of agreement between two related facts. Evidence contradicts another piece when it says the opposite of what the other piece of evidence has stated and where there are mere discrepancies in details between them. Two pieces of evidence contradict, one another when they are inconsistent on material facts while discrepancy occurs where a piece of evidence stops short of, or contains a little more than what the other piece of evidence says or contains.”

40. Unfortunate for the appellant this ground of appeal is weak and has no basis. The evidence was that PW1 disappeared for three days and was found in his house sleeping on his bed. She reported that she had been defiled and the medical evidence supported that conclusion she told the investigating officer that the appellant would tie her hands and legs to hold her captive and repeatedly defiled her especially at night. There was no inconsistency which this court picked out nor did the appellant identify any major inconsistency in his submissions to warrant a review of the findings of the trial court.

41. The appellant also submitted that the medical report exonerated him of the misdemeanor. The medical report did not exonerate the appellant. The fact that spermatozoa was not found on the genitalia of PW1 did not mean that no defilement occurred. In the case of Fappyton Mutuku Ngui V Rep(2014) eklr the court of Appeal stated as follows as regards medical evidence of the accused person;

“in our view such evidence was not necessary and in any event the trial court found that there was sufficient medical evidence in support of PW-2 testimony which was trustworthy as to the person who had defiled her”

The learned magistrate erred in convicting the appellant on a defective charge sheet.

42. Section 134 of the Criminal procedure code provides that;

“Every charge sheet or information shall contain and shall be sufficient if it contains, a statement of the specific offence or offences with which the accused person is charged together with particulars as maybe necessary for giving reasonable information as to the nature of the offence charged.”

43. The appellant made general allegations that the charge sheet is defective but did not show how the same was defective and/or how it did not either disclose the specific offence or lacked in some particulars. Further having reviewed the charge sheet dated 3rd February 2018 I do find that it was not defective in any manner.

The sentence imposed was unlawful and will result in untold suffering of the appellant since the chargesheet was tailor made.



44. The appellant was sentenced to 20 years imprisonment as provided under section 8(3) of the *sexual offences Act* No 3 of 2006, which provided for mandatory sentence. In *Maingi & 5 others Vs. Director of Public Prosecution & Another* (Petition No.E117 of 2021) (2022) KEHC 13118 (KLR) the Petitioners who were convicts serving offences under *Sexual Offences Act* No 3 of 2006 sued the Attorney General and sought for declaration that the mandatory nature of sentence under the *Sexual Offences Act* were unconstitutional as it fettered the discretion of Judges and Magistrates in meting out sentence. Justice G.V Odunga vide his considered judgment dated 17th May, 2022 did find that;
- “to the extent that the *Sexual Offences Act* prescribed minimum mandatory sentences, with no discretion to the trial court to determine the appropriate sentence to impose, such sentence fall foul of Article 28 of *the Constitution*. However, the courts are at liberty to impose sentences prescribed thereunder so long as the same are not deemed to be mandatory minimum prescribed sentences.
45. The Appellant urged the court to reconsider the sentence imposed as it was harsh, excessive and emotional.
46. The provision of section 8(3) of the *Sexual Offences Act* No 3 2006 and legislation that was in force before commencement of *the Constitution* of Kenya 2010 must be considered with adaptation, qualification and exception when it comes to the mandatory minimum sentence and in particular when the said sentences do not take into account the dignity of the individual as mandated under article 27 of *the Constitution* and as appreciated in the Francis Muruatetu case.
47. This court does appreciate the gravity and nature of the offence committed and does not condone offences against minors and vulnerable persons. This was appreciated by Madan J as he was then in *Yasmin Vs. Mohammed* (1973) EA 370 –
- “The High Court is specially endowed with jurisdiction to safeguard interest of infants, as the court is the parent of all infants. The welfare of the infant is paramount and it is dear to the heart of the court. There would be no better tribunal to perform the task more wisely as well as affectionately. All infant in Kenya of whatever community tribe, sect fall within the ambit of guardianship of Infant Act and the court is charged with the sacred duty to ensure that their interest remain paramount and can duly preserve.”
48. In the case *R Vs. Scott* (2005) NSWCCA 152 Howle J. Grove & Baar JJ then stated –
- “There is a fundamental and immutable principle of sentencing that the sentence imposed must ultimately reflect the objective seriousness of the offence committed and then must be a reasonable proportionately between the sentence passed in the circumstance of the crime committed...one of the purpose of punishment is to ensure that the offender is adequately punished... a further purpose of punishment is to denounce the conduct of the offender.”
49. In this case the appellant unlawfully violated an innocent girl in the most dehumanizing manner. He took advantage of a vulnerable child who was obviously in need of parental care and protection and turned into a beast, demeaning her dignity with gross sexual acts which have left her with life time psychological harm.

Conclusion

50. Having considered all factors in this case, considering the gravity of the offence against an innocent minor and Appellants mitigation and also bearing in mind the persuasive finding in. In *Maingi & 5*



others Vs. Director of Public Prosecution & Another (Petition No.E117 of 2021)(2022) KEHC 13118 (KLR) as well as the dicta in Francis Muruatetu case I hereby set aside the sentence of 20 years imposed on the Appellant in Wang'uru PM Criminal Case SOA No.06 of 2018 vide judgment dated 6.6.2019 and substitute it therefor with a sentence of fifteen (15) years imprisonment to run from the period he has been in custody in the lower court to wit 06.02. 2018.

51. For avoidance of doubt the appeal on conviction is dismissed.

52. Right to Appeal 14 days.

Judgement accordingly

JUDGMENT READ, SIGNED AND DELIVERED VIRTUALLY AT MACHAKOS THIS 16TH DAY OF MARCH 2023.

FRANCIS RAYOLA

JUDGE

In the Presence of

Appellant

-----For ODPP

-----Court Assistant

