



**Sang alias Kipchirchir v Republic (Criminal Appeal E004 of 2022)  
[2023] KEHC 22419 (KLR) (21 September 2023) (Judgment)**

Neutral citation: [2023] KEHC 22419 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAPSABET  
CRIMINAL APPEAL E004 OF 2022  
JR KARANJA, J  
SEPTEMBER 21, 2023**

**BETWEEN**

**KENNEDY CHERUIYOT SANG ALIAS KIPCHIRCHIR ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**JUDGMENT**

1. Indeed the appeal is essentially on sentence and not conviction as implied in the appellants grounds of appeal. An Appeal Court may only interfere with the sentence imposed by the trial court if it is unlawful or excessive in the circumstances.
2. In this case, the appellant was charged with defiling a five year old child and upon his own plea of guilt, he was convicted and sentenced to life imprisonment pursuant to section 8(2) of the *Sexual Offence Act* which provides for such sentence. The sentence imposed by the trial court was therefore not unlawful.
3. However, considering that the appellant was a first offender, the sentence was rather excessive even though section 8(2) of the *Sexual Offences Act* is framed in mandatory terms.
4. In that regard the appeal is allowed to the extent that the life imprisonment sentence is hereby set aside and substituted for a sentence of thirty (30) years imprisonment.

**DELIVERED AND DATED THIS 21ST DAY OF SEPTEMBER, 2023**

**J. R. KARANJAH,**

**JUDGE**

