

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CORAM: A.K NDUNG'U J.

CRIMINAL APPEAL NO. 78 OF 2019

JOHANA KIBET MUTAI.....APPELLANT

VERSUS

REPUBLIC through ODPP.....RESPONDENT

(An appeal from the conviction and sentence of Hon. R. Oanda, PM dated and delivered on the 12th day of April 2019 in the original PMCR(Sexual Offences) No. 49 of 2018)

JUDGEMENT

I have considered the application and the applicant's plea. The trial magistrate gave the maximum sentence thus failing to exercise discretion within the import of the Muruatetu case.

I am persuaded that the sentence should be subject to review. The sentence is reviewed, set aside and substituted thereof with a sentence for 6 years imprisonment to run from the day of the initial sentencing.

Dated and delivered at Kisii this 18th day of February 2020.

A.K NDUNG'U

JUDGE

Mr. Otieno, Senior Prosecution Counsel, instructed by Office of Director of Prosecutions.

Appellant in person