

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

CORAM: A.K NDUNG'U J.

CRIMINAL APPEAL NO. 60 OF 2019

RONALD MANYARA.....APPELLANT

VERSUS

REPUBLIC through ODPP.....RESPONDENT

(An appeal from the conviction and sentence of Hon. R. Oanda, PM

dated and delivered on the 3rd day of July 2019 in the original PMCR

(Sexual Offences) No. 42 of 2018)

JUDGEMENT

I have considered the concession by the DPP who has raised an important omission on the part of the trial magistrate.

In the circumstances of this case, I find and hold the proceedings leading to the conviction of the appellant irregular. I proceed to set aside the conviction and sentence of the appellant.

The interests of justice in this matter shall be served with an order for retrial. The order on conviction and sentence is set aside and substituted with an order that the appellant be tried afresh before any magistrate of the requisite jurisdiction other than R.M Oanda PM.

Dated and delivered at Kisii this 17th day of February 2020.

A.K NDUNG'U

JUDGE

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

Gogi h/b Mireri, Advocate for the appellant