



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KABARNET**

**CRIMINAL APPEAL NO. 22 OF 2018**

**PETER KIPSOI CHEROGONY.....APPELLANT**

**=VERSUS=**

**REPUBLIC.....RESPONDENT**

**[An appeal from the original conviction and sentence of the Senior Principal Magistrate's Court at Kabarnet Sexual Offence Case no. 32 of 2017 delivered on the 28<sup>th</sup> day of March, 2018 by Hon. V.O. Amboko, RM]**

**RULING**

1. Pursuant to section 358 (1) of the Criminal Procedure Code, the court directs the additional evidence by way of Occurrence Book (OB) for **14/12/2017** at Kabarnet Police Station, which the court considers necessary in the determination of the veracity of evidence already taken by the trial court; see section 165 of the Evidence Act.
2. The OB No. 12/14/12/2017 of Kabarnet Police Station shall be produced before this court by a suitable officer from Kabarnet Police Station on a date to be fixed in consultation with the appellant and the DPP.
3. Section 358 (1) of the Criminal Procedure Code pursuant to which the order herein is made is in the following terms:

*“358 (1) in dealing with an appeal from a subordinate court, the High Court, **if it thinks additional evidence is necessary**, shall record its reasons, and may either **take such evidence itself** or direct it to be taken by a subordinate court”.*

[Emphasis Added]

Order accordingly.

**DATED AND DELIVERED THIS 4<sup>TH</sup> DAY OF MARCH 2020.**

**EDWARD M. MURIITHI**

**JUDGE**

**Appearances:**

Appellant in person.

Ms. Macharia, Ass. DPP for the Respondent.