



**REPUBLIC OF KENYA**

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

**CRIMINAL REVISION NO.95 OF 2020**

**JACKLIGHT NYAMBEI KARAMUSHU.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Revision of the Original Sentence dated 18.08.2017 in Nanyuki Criminal Case No.117 of 2015– L. Mutai, CM)*

**21.05.2020**

Before Justice H P G Waweru

In Chambers

**ORDER ON REVISION**

**I have examined the record of the trial court following the request for revision by letter dated 05.05.2020 (Filed in Court on 11.05.2020) addressed to Court by the Convict's Advocates.**

**1.** The Convict herein, **JACKLIGHT NYAMBEI KARAMUSHU**, was convicted after trial of *Defilement of a child* contrary to Section 8(1) and (3) of the *Sexual Offences Act, No.3 of 2006*. On 18.08.2017 he was sentenced to serve *thirty (30) years imprisonment*.

**Conviction.**

**2.** Contrary to the assertions of the learned counsel for the Convict, he was not convicted solely upon the testimony of the complainant. The trial court found that the Medical evidence tendered corroborated the Complainant's story that she was defiled. The convict was a person she well knew. The convict never cross-examined the Complainant after she was offered to him to ask her questions.

**3.** The trial court also found that the complainant was not mistaken at all in her identification of the Convict, a person she knew very well as a kind of grandfather.

**4.** The trial court also considered the defence offered by the Convict and dismissed his mere denial of the offence as it did not in any way shake the very strong evidence presented by the prosecution. The court rightly rejected that defence.

**5.** I am satisfied that the conviction was founded on good and sound evidence; the charge was proved beyond reasonable doubt. The conviction is safe.

**Sentence**

**6.** As for the sentence of thirty (30) years imprisonment, the trial court noted that the Convict was a first offender. However, the offence was compounded by the fact that the Complainant was a child with special needs. Further, the Convict had taken advantage of the child's familiarity with him. The child was aged 14 years at the time of the offence. The Convict is said to be about 35 years old now. That means that when he was sentenced on 18.08.2017 he was approaching 32 years.

**7.** Everyone deserves a second chance. I have noted the further mitigation given by the Convict's Advocates.

**8.** I will in the event set aside the sentence of thirty (30) years meted out to the Convict and substitute therefor a sentence of *ten (10) years imprisonment* from the date he was sentenced, that is, 18<sup>th</sup> August, 2017. It is so ordered.

DATED AT NANYUKI THIS 21<sup>ST</sup> DAY OF MAY, 2020

H.P.G. WAWERU

JUDGE.

DEPUTY REGISTRAR

NANYUKI HIGH COURT