



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT SIAYA**  
**CRIMINAL APPEAL NO. 69 OF 2018 [SO]**

**(CORAM: R. E. ABURILI - J.)**

**BETWEEN**

**SAMWEL ONGOK ONGOK.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Being an Appeal both conviction and sentence in Bondo Principal Magistrate Court Case No. 25 of 2018 dated 5.11.2008 by Hon. M. Obiero, Principal Magistrate)*

**RESENTENCING VIA SKYPE**

1. On 10/2/2020, this court delivered judgment in this appeal dismissing the appellant's appeal against conviction.
2. On sentence, the court ordered for a Social Inquiry Report to be filed by Siaya County Probation Officer. I also ordered for a Victim Impact Statement; which were filed on 2/3/2020 and the appellant accorded an opportunity to mitigate for resentencing now that he was sentenced to serve mandatory sentence of life imprisonment as stipulated in Section 8(2) of the Sexual Offences Act.
3. I have considered the Probation Officer's report dated 2/3/2020 signed by Euphemia Kidwoli, Probation Officer, and Bondo Sub-county of Siaya County.
4. I have also considered the fact that the victim could not be traced and that her mother did not want to hear anything of this case and refused to divulge information on the inmate and the offence saying she testified in court.
5. The Appellant is said to be a lay reader in his local Nomiya Church. He is aged 71 years old with a family of a third wife and seven children aged 19 years and a pre-school kid. He maintains his innocence despite the court finding him guilty. He is a first offender. The victim residence had to be changed after the incident.
6. The Appellant also claims that his children are being shared amongst other people yet he is still alive. He wants to be released to go home because he is suffering in prison.
7. As correctly submitted by Mr. Okachi for the Respondent, the Probation Officer's report reveals that the victim had to be relocated as she was traumatized by the incident. She was a young child aged only 9 years old when she was defiled by the appellant who claims that he was framed. I did not find any reason why he could be framed. The offence of defilement is heinous. It's traumatizing to the victim and the society at large.
8. The Appellant has his own young children the age of the victim of this heinous offence who look up to him for protection.
9. As an old man, he knew and ought to have known the dire consequences of not taming his lust for young children. He had a wife. The question that this court must not cease to ask is why did he prey on an innocent young child of age 9 years? Only the appellant knows the answer as he claims his innocence.
10. For the above reasons, taking into account the age of the appellant and the principles espoused in **Francis Karioko Muruatetu V R SC Petition 15 & 16 of 2015 and CA CRA 93 of 2014 Jared Injiri Koita V Republic [2019] eKLR**, I hereby resentence the Appellant **Samwel Ongok Ongok** to serve **thirty (30) years imprisonment** to be calculated from the date of sentence in the lower court on 5/12/2018.
11. **Right of Appeal explained.**

**Dated, signed and Delivered at Siaya, this 5<sup>th</sup> Day of May, 2020 via skype due to Covid 19 situation.**

**R.E. ABURILI**

**JUDGE**