

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL APPEAL NO. 97 OF 2017

MAURICE OCHIENG OBADHA.....APPELLANT

VERSUS

REPUBLIC..... RESPONDENT

(Being an appeal against conviction and sentence in Siaya PMCCR [S.O.] No.6 of 2017 dated 4.10.2017 before Hon. J.O. Ongondo – Principal Magistrate)

JUDGMENT

1. The appeal herein filed on 6.10.2017 challenges the conviction and sentence of 10 years imprisonment imposed by Hon. J.O. Ong'ondo – P.M. delivered on 4.10.2017 in Siaya PM [S.O.] Case No. 6 of 2017.
2. The appellant Maurice Ochieng was convicted and sentenced for raping a 70 year old woman on the nights of 2nd and 3rd February, 2017 at Got Regea Sub-Location in Gem Sub-County within Siaya County. The appellant has now applied to have his appeal against conviction withdrawn. I hereby mark his appeal against conviction as withdrawn.
3. On sentence, the appellant was sentenced to a minimum sentence of 10 years imprisonment **under Section 3(1) (a) (b) (3) of the Sexual Offences Act.**
4. That Section also gives discretion to the court to enhance sentence to life imprisonment.
5. However, as the appellant has not pursued his appeal against conviction, I invoke **Section 333(2) of the Criminal Procedure Code** and Order that the 10 year imprisonment shall be calculated from 3.2.2017 when the appellant was first arrested since he was not on bond during the trial.
6. The appeal against sentence is accordingly allowed to that extent only.
7. Orders accordingly.

Dated, Signed and Delivered at Siaya this 20th Day of November, 2019.

R. E. ABURILI

JUDGE

In the presence of:

The appellant in person

Mr. Okachi SPPC

CA: Brenda and Modestar