



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

**CRIMINAL APPEAL NO. 80 OF 2018**

**CORAM: D.S. MAJANJA J.**

**BETWEEN**

**ABDIAZIZ ABDI HIRSI.....APPELLANT**

**AND**

**REPUBLIC..... RESPONDENT**

*(Being an appeal from the original conviction and sentence of Hon. S. Mwangi, CM dated 5<sup>th</sup> July 2018 at the Chief Magistrate's Court at Isiolo in Criminal Case No. 241 of 2016)*

**JUDGMENT**

1. The appellant, **ABDIAZIZ ABDI HIRSI**, was charged with the offence of promotion of trafficking in persons contrary to **section 5(d)** of the **Counter Trafficking in Persons Act, Act No. 8 of 2010**. He was convicted and sentenced to pay a fine of Kshs. 20 million in default to serve 20 years' imprisonment.
2. Having read the record, it is not clear whether the appellant understood the proceedings. The charges against him were read in Swahili. He gave his defence and mitigation in Somali language. The proceedings and particularly the cross-examination does not reflect the fact that he understood the proceedings.
3. I allow the appeal and quash the conviction. I will however order a retrial and for that reason the appellant shall remain in custody and shall be taken for fresh plea before the Magistrates Court at Isiolo on 22<sup>nd</sup> October 2018. The trial magistrate is directed to ensure that a Somali translator is provided.

**DATED and DELIVERED at MERU this 17<sup>th</sup> day of October 2018.**

**D.S. MAJANJA**

**JUDGE**

Ms Nelima, Advocate for the Appellant.

Mr Kiarie, Prosecution Counsel, instructed by the Office of the Director of Public Prosecutions for the respondent.