

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIVASHA

HCCRA NO. 95 OF 2015

(FORMERLY NAKURU CRIMINAL APPEAL NO. 38 OF 14)

(Being an appeal against conviction and sentence in Narok Criminal Case No. 606/2012- T. A. Sitati- Ag. SRM)

PETER ODHIAMBO MAHOMBIRE.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

1. The Appellant was charged with Defilement of a girl aged 16 years contrary to Section 8 (1) as read with Section 8 (4) of the Sexual offences Act. The particulars in the charge sheet stated that on 25th May, 2012 in Narok, the Appellant caused his penis to penetrate the vagina of M.T.O. a girl aged 16 years. The Appellant denied the main charge as well as the Alternative charge of Indecent Act with a child contrary to section 11 (1) of the sexual offences act.

2. Following a full trial he was convicted and sentenced to serve 15 years imprisonment. He now appeals to this court, initially on sentence but later in what he describes as “**mitigation of appeal**”, he appears in addition to pleading for review of the sentence, to challenge the conviction itself. The appeal was admitted by the High Court at Nakuru. At the hearing of the appeal the Appellant made it clear that his appeal is only related to the sentence.

3. The sentence is prescribed by the law. The Appellant having been convicted for an offence under Section 8 (1) as read with Section 8 (4) was liable to imprisonment in a term not less than 15 years. The sentence awarded therefore was legal and proper. The Appellant was given a chance to mitigate and he addressed the court. This court cannot, despite his present pleas in mitigation interfere with the sentence of the lower court.

4. The appeal on sentence has no merit and is therefore dismissed.

Delivered and signed at Naivasha this **13TH** day of **May** 2016.

C. Meoli

JUDGE

In the presence of

For the DPP Mr. Koima

For the Appellant N/A

Appellant In person

Mr. Barasa Court Clerk