



Republic v Mwai (Sexual Offence 139 of 2019) [2023] KEMC 308 (KLR) (1 August 2023) (Ruling)

Neutral citation: [2023] KEMC 308 (KLR)

**REPUBLIC OF KENYA
IN THE NAKURU LAW COURTS
SEXUAL OFFENCE 139 OF 2019
PA NDEGE, SPM
AUGUST 1, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

JOSPHAT NDIRANGU MWAI ACCUSED

RULING

1. The accused person Josaphat Ndiragu Mwai was indicted before this honorable court with the charges of Sexual Assault contrary to Section 5(1)(a)(i) as read with section 5(2), Section 5(1)(b) as read with Section 5(2) and committing indecent acts with a child contrary to Section 11(A) of the Sexual Offence *Act No 3 of 2006*.
2. The state alleged that on 11th September 2019 and 23rd September 2019 in Nakuru East Sub County within Nakuru County he unlawfully used his fingers to penetrate the vagina of M.C a child aged 9 yrs and S.N.M. a child also aged 9 years.
3. That the accused also unlawfully manipulated the tongue of S.N.M so as to cause penetration into the vagina of M.C and also manipulated the tongue of M.C to penetrate the vagina of S.N.M. Further that the accused intentionally and unlawfully committed indecent acts with S.N.M and M.C by touching their vaginas using his penis.
4. During the time of plea, the accused pleaded not guilty and there by placed the state on notice to adduce the evidence to prove the charge beyond reasonable doubt. In order to prove the contrary of the presumptions of innocence of the accused the state has presented its case before this honorable court. I do find that the evidence presented before this honorable court establishes a prima facie case against the accused sufficient to warrant him being called upon, which I hereby do, to make his defense as required under section 211 of the CPC.

DATED, SIGNED AND DELIVERED IN NAKURU OPEN COURT THIS 01ST DAY OF AUGUST 2023



HON: ALOYECE PETER NDEGE
SENIOR PRINCIPLE MAGISTRATE

