



**Ekwee v Republic (Criminal Appeal E009 of 2024)
[2026] KEHC 778 (KLR) (23 January 2026) (Judgment)**

Neutral citation: [2026] KEHC 778 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT LODWAR
CRIMINAL APPEAL E009 OF 2024
PJO OTIENO, J
JANUARY 23, 2026**

BETWEEN

JOHN ETOOT EKWEE APPELLANT

AND

REPUBLIC RESPONDENT

JUDGMENT

1. The appellant was charged that on the 20/1/2024 at about 1400hours in Lokichoggio Sub-county of Turkana County intentionally and unlawfully caused his penis to penetrate the vagina of one NA without her consent. He denied the charges and a full trial ensued. At the trial the prosecution called three witnesses, the complainant, the clinician and the investigating officer.
2. The accused chose not to challenge the testimonies by the three and infact informed the court, instead of cross-examining the complainant, that he had no questions because he wanted to pay her animals in compensation.
3. The account by the complainant, PW1 was, in the assessment of the court, on reassessment of the evidence, cogent and credible. She gave an account of what the appellant did to her in broad day light. The Appellant was not a stranger but one well known to her. He was not only a clan’s mate but also a friend to the husband. There was no credible basis to infer a grudge as to prompt her to fix the appellant.
4. Without any challenge to the evidence by way of cross-examination, the evidence stands uncontroverted. When so uncontroverted, it establishes a prima facie case, a case upon which a court can enter a conviction, in the absence of other evidence to the contrary.
5. When placed on his defence and given an opportunity to debunk the case established against him to create a reasonable doubt to and earn himself the benefit of the doubt by way of an acquittal, he offered a bare denial. The court determines that the evidence offered by the appellant was never cogent enough to controvert the prima facie case mounted by the prosecution.



6. The court has therefore executed its mandate on first appeal, re-examined the record and come to the conclusion that the assessment of the evidence, application of the law and the conclusions arrived at by the trial court was accurate and on point and thus beyond disturbance on appeal.
7. The court finds no merit on the appeal and dismisses the same. However the section under which he was served prescribed a minimum sentence of 10 years. The court invokes article 50(2) P of the [Constitution](#) and reduces the sentence from 13 years to 10 years, being the least severe of the punishment prescribed.

DATED, SIGNED AND DELIVERED THIS 23RD DAY OF JANUARY, 2026.

PATRICK J O OTIENO

JUDGE

