



REPUBLIC OF KENYA



KENYA LAW
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**CKJ v Republic (Criminal Appeal E020 of 2025)
[2026] KEHC 963 (KLR) (3 February 2026) (Judgment)**

Neutral citation: [2026] KEHC 963 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
CRIMINAL APPEAL E020 OF 2025
NIO ADAGI, J
FEBRUARY 3, 2026**

BETWEEN

CKJ APPELLANT

AND

REPUBLIC RESPONDENT

(Being an Appeal against the decision of the Machakos Law Court by Hon. V. Ochanda, SRM in Sexual Offences Case No. 73 of 2019, Judgment delivered on 30th July, 2024 and sentence meted on the 5th day of August, 2024)

JUDGMENT

1. The Appellant Charles Kamitu Joseph was on 27/12/2019 charged at Chief Magistrates Court at Machakos with incest contrary to section 20(1) of the [Sexual Offences Act](#). The Appellant further faced an alternative count of Committing an Indecent Act with a Child contrary to section 11(1) of the [Sexual Offences Act](#).
2. The particulars of the case were that on diverse dates between 9th December 2019 and 13th December 2019 at Kyambuko area in Machakos sub county within Machakos county the Appellant being a male person intentionally and unlawfully caused his penis to penetrate the vagina of CKK (name withheld) a child aged 8 years who was to his knowledge his daughter.
3. The Appellant pleaded not guilty to the two charges and the alternative charges and the matter was set down for hearing. The Prosecution adduced evidence through four (4) witnesses. These were PW1-the complainant/victim, PW2-the complainant's mother, PW3-the Doctor and PW4-the investigating officer.
4. The Appellant gave sworn defence evidence and called five (5) witnesses who all denied the incident occurred and that at the time, the Appellant had been involved in a road accident and injured his hands and legs and was in crutches for a long time. The Appellant could therefore not have committed the



alleged offence. The Appellant stated that him and his wife had marital issues after that accident as he was not able to take care and provide for the family. He asserted that his wife framed him on the charges so that she could pursue his former employer and claim for the insurance compensation on the accident.

5. Upon considering the evidence adduced in support of the charge, the trial court on the 10th July 2024 convicted the Appellant who was sentenced to serve a life imprisonment.
6. Being aggrieved by the trial court's conviction and sentence, the Appellant filed a petition of appeal dated 19th February 2025 raising 7 grounds of appeal as follows:-
 1. That, the learned Magistrate erred in law and fact by failing to re-evaluate the whole evidence of the prosecution case as incumbent of him to find that the ingredients forming the case in question was not established.
 2. That, the learned trial Magistrate erred in law and fact by failing to observe that the prosecution's case was open to ambivalent since the trial was unfair in contravention of article 25 (c) of *the constitution*.
 3. That, the learned trial Magistrate erred in law by failing to give the appellant's defence, submissions and exhibits adequate consideration, consequently acting inconsistently with article 50 of the Kenyan Constitution.
 4. That, the learned trial Magistrate erred in matters of law and facts by failing to find that the essential prosecution witnesses and exhibits, necessary to prove basis facts were not produced.
 5. That, the trial magistrate erred in matters of law and facts by sentencing the appellant to life imprisonment without observing that it was contrary to the principles of article 28 of *the constitution*.
 6. That, the trial court magistrate erred in law and facts for sentencing the appellant to life imprisonment without observing the rudimentary demands of Ali Abdalla Mwanza Case Criminal Appeal No. 259 Of 2012 At Mombasa on the concept of normal life age expectance.
 7. That further grounds to be adduced at the hearing upon receipt of a copy of the trial court record.
7. The prosecution opposes the instant appeal and submits that the trial court properly evaluated the evidence and came to the right conclusion.
8. The Appeal was canvassed through written submissions. The Appellant's submissions are dated 20th August 2025 whilst the Respondent's submissions are dated 21st September 2025 filed by Ms. Agatha Abang, prosecution counsel. I will refer to the proceedings and the parties' respective submissions in my analysis of the appeal.

Analysis and Determination

9. This being the first appeal, this court is expected to re-evaluate the evidence tendered before the trial court and to come up to its own logical conclusion by taking into account the fact that it did not have the advantage of seeing and hearing the witnesses and their evidence and/or see their demeanor. This



court is guided by the Court of Appeal case of Okeno – VS – Republic (1972) EA 32 where it was stated as follows: -

“An appellant is entitled to expect the evidence as a whole to be submitted to a fresh and exhaustive examination and to the Appellate court’s own decision on the evidence. The first appellate court must itself weigh conflicting evidence and draw its own conclusions. It is not the function of the first appellate court merely to scrutinize the evidence to see if there was some evidence to support the lower court’s findings and conclusions; it must make its own findings and conclusions. Only then can it decide whether the magistrate’s findings can be supported. In doing so, it should make an allowance for the fact that the trial court has had the advantage of hearing and seeing the witnesses”.

10. Also, in Peter’s vs Sunday Post (1958) E.A. 424 it was held that it is not the function of the first appellate court merely to scrutinize the evidence to see if there was some evidence to support the lower courts finding and conclusion: it must make its own findings and draw its own conclusions. Only then can it be decided whether the magistrate findings should be supported. In doing so it should make allowance for the fact that the trial court had the advantage of hearing and seeing witnesses.

11. In the case of Republic Vs Edward Kirui (2014) eKLR, the Court of Appeal quoted the Supreme Court of India Case of Murugan & Another Vs State by Prosecutor, Tamil Nadu & Another (2008) INSC 1688 where the case of Bhagwan Singh Vs State of M. P. (2002)4 SCC 85 was cited as follows:-

“The paramount consideration of the court is to ensure that miscarriage of justice is avoided. A miscarriage of justice which may arise from the acquittal of the guilty is no less than from the conviction of an innocent. In a case where the trial court has taken a view of ignoring the admissible evidence, a duty is cast upon the High Court to re-appreciate the evidence on appeal for the purpose of ascertaining as to whether all or any of the accused has committed any offence or not.”

12. Having carefully considered the lower court record, the Petition of Appeal and the grounds raised therein as well as the submissions of the parties, I find the following as pertinent issues for determination;

- a. Whether the prosecution proved the case beyond reasonable doubt
- b. Whether the sentence should be interfered with.

a. Whether the prosecution proved the case beyond reasonable doubt

13. It is trite that all criminal offences require proof beyond reasonable doubt. Lord Denning in Miller vs. Ministry of Pensions (1947) 2 All ER, 372 stated as follows:

“That degree is well settled. It need not reach certainty, but it must carry a high degree of probability. Proof beyond reasonable doubt does not mean proof beyond the shadow of a doubt. The law would fail to protect the community if it admitted fanciful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour which can be dismissed with the sentence of course it is possible, but not in the least probable, the case is beyond reasonable doubt, but nothing short of that will suffice.”

14. In this case, the Appellant was charged and sentenced under Section 20 (1) of the [Sexual Offences Act](#) which provide as follows:



- (1) “Any male person who commits an indecent act or an act which causes penetration with a female person who is to his knowledge his daughter, granddaughter, sister, mother, niece, aunt or grandmother is guilty of an offence termed incest and is liable to imprisonment for a term of not less than ten years:

Provided that if it is alleged in the information or charge that the female person is under the age of eighteen years, the accused person shall be liable to imprisonment for life and it shall be immaterial that the act which causes penetration or the indecent act was obtained with the consent of the female person.”

15. The ingredients for the offence of incest can be summarized as follows;
- a. Proof of the age of the victim.
 - b. Proof that the offender is a relative of the victim,
 - c. Proof of penetration or indecent act
 - d. proper identification of the perpetrator.

a. Proof of the age of the victim.

16. On the ingredient of age of minority, PW1 during voire dire examination on 05/10/2021 and while giving her evidence stated that she was 10 years old. This was two years after the incident date. When PW2 testified on 25/07/2022 the year 2022 she stated the victim PW1 was 11 years and that the victim PW1 was born on 9/9/2011 and she referred to the Birth Certificate PExt.4. Thus, at the time of the incident, she was 8 years and 3 months old. The incident happened on diverse dates between 9/12/2019 and 13/12/2019. Thus, on those dates she was 8 years old.
17. The Court of Appeal in *Mwalango Chichoro Mwanjembe v Republic* (2016) eKLR held that:
- “ the question of proof of age has finally been settled by recent decisions of this court to the effect that it can be proved by documentary evidence such as birth certificate, baptism cards or by oral evidence of the child if the child is sufficiently intelligent or the evidence of the parents or guardians or medical evidence among other credible forms of proof ”
18. The Appellant has in his submissions attempted to challenge the admission of a photocopy of the Birth Certificate PExt.1 by arguing that under Article 50 (4) of *the Constitution*, his Constitutional Rights were violated for he was convicted on unsubstantiated evidence while admitting exhibits which were not original in nature. For instance, when the prosecution decided to produce a copy of the Birth Certificate instead of an original one, then its authenticity stands as unjustified. Even though the trial court assumed it to be admissible and reliable, it cannot be wished away as such to treat it as a minor discrepancy.
19. A cursory perusal at the proceedings shows that the Appellant did not dispute the fact of age of the complainant or raise any objection even to the production of the copy of the Birth Certificate. The trial court thus came to the right conclusion that the age of the complainant/victim was sufficiently proved.
20. I equally find that the ingredient of age of minority of the complainant/victim being 8 years at the time of the incident was proved by the prosecution.

Proof that the offender is a relative of the victim.

PARA 21.



. PW1 refers to the Appellant as "my father". She testified that she lived with her mother PW2 and her siblings and she used to live with her father the Appellant. Throughout her evidence she used the word " my father" or "my dad" when she was referring to the person who defiled her who is the Appellant. PW2 testified that her young son told her the Appellant touched PW1. PW1 also told her it was the Appellant her husband who defiled her. PW2 confirmed that the Appellant was the father of the victim and PW1 told her the Appellant defiled her.

22. The Appellant submitted that the prosecution tried to make a case where there was none, hence not enough for a safe conviction bearing in mind the substantial material for DNA analysis as a hammer enough to incriminate was not availed even after the Appellant applied for the same at the onset and ultimate end of the trial.

23. I have also perused through the trial court's proceedings and I have not come across where the issue of DNA analysis is mentioned or applied for by the Appellant. The record shows that when the Complainant (PW1) the Appellant was ably represented by Advocate Kilonzo who raised no issue concerning paternity of the Appellant to the complainant.

24. The victim PW1 confirmed the Appellant is her father, evidence which was corroborated by PW2.

25. Section 20 provides that:

“ Any male person who commits an indecent act or an act which causes penetration with a female person who is to his knowledge his daughter, granddaughter, sister, mother, niece, aunt or grandmother is guilty of an offence termed incest”.

26. PW1 is the daughter of the Appellant which falls under the ambit of Section 20(1) of the *Sexual Offences Act*. From the evidence that was adduced during trial it is clear that the Appellant is the father of the victim and thus existed relationship as envisaged in the Act.

27. Further, the complainant was the Appellant's daughter as shown in the Birth Certificate PExt.4.

28. Therefore, the evidence on relationship between the complainant/victim and the Appellant is water tight.

c. Proof of penetration or indecent act

29. On the issue of penetration, the same is defined in Section 2 of the *Sexual Offences Act* as;

“ penetration” means the partial or complete insertion of the genital organs of a person into the genital organs of another person;

30. . PW1 stayed at home with her mother PW2 and siblings. Her father who is the Appellant used to stay with them. She narrated several dates that the Appellant defiled her. She stated that on 9/12/2019 her mother PW2 left her and her siblings at home with her father the Appellant. After taking tea while she was washing dishes, the Appellant grabbed her and closed her mouth and dragged her to her mother's bed. PW1 testified that " the father removed my trousers together with my panties. He then opened his trouser zip and then inserted his penis onto my private part (vagina) before inserting his penis in my vagina he first inserted his fingers in my vagina.... " (proceedings page 15). PW1 further testified that when the Appellant inserted his private part in my private part, she felt pain and that the Appellant was lying on her when he inserted his private part (penis) into her vagina. She further testified that she went to the toilet and was bleeding which she wiped the blood from her vagina. PW1 further narrated the same happened on 10/12/2019. While her mother was away and she was washing utensils, the



Appellant grabbed and dragged her to her mother's bed. She testified "my father closed my mouth and dragged me to my mother's bed and he also removed my trouser and also removed his trouser and then he inserted his penis into my vagina" (proceedings page 16). PW1 also testified that on 11/12/2019 the Appellant defiled her again. She stated that " my dad came and grabbed me and closed my mouth using his hands. By then my dad was outside and he grabbed me on my way to the house and then again, he took me to my mother's bed and removed my trouser and then he removed his short and he removed his penis and inserted the same in my vagina... " (proceedings page 17). PW1 further testified that the Appellant defiled her on 13/12/2019.

31. PW3 testified that when PW1 was examined 7 days had passed. She had no physical injuries but the hymen was broken/absent. PW3 produced the Post Rape Care (PRC) Form and the P3 Form as PExt.1 and PExt.2 respectively. On cross-examination, he stated that he was not aware of the object that penetrated the minor. There were no spermatozoa.
32. The Appellant has submitted that PW1 acknowledged during cross-examination that her father had sustained injuries from a prior accident and was using crutches at the time of the alleged incident. She stated that he had injuries on both legs and his right hand, which would reasonably impair his ability to perform the acts she described particularly overpowering her, undressing her, and engaging in sexual intercourse while restraining her mouth.
33. He submitted that while PW1 maintained that similar acts occurred over several days (9th to 13th December 2019, excluding the 12th December), her account lacked consistency in detail and tone, and she appeared to exonerate the accused at certain points, casting doubt on the reliability of her testimony.
34. The Appellant argued that PW1 claimed that her siblings were present in the room during the incident, yet there was no corroboration from them, nor any explanation as to why they did not intervene or raise alarm.
35. These contradictions raise serious questions about the reliability and credibility of her testimony, especially in light of the physical limitations of the accused and the lack of corroborative evidence. He placed reliance on the Court of Appeal cases of *Richard Munene v. R.*, (20181 eKLR, *Sigei v. R.*, [20231 KECA 154 (KLR) and *Ochieng & Another v. R.*, (Cr. App. 153 of 2017) [20231 KECA 1461 (KLR) where the Court of Appeal at Kisumu quashed the conviction due to unreliable witness identification and contradictions in testimony. The case illustrates how inconsistencies and lack of corroboration can undermine the credibility of a witness, especially in criminal matters where the burden of proof is high.
36. He also cited *Kibocha v. Republic* (Cr. App. 22 of 2024) [20241 KEHC 10733 (KLR) where this High Court at Thika found that the trial court erred by relying on prosecution evidence riddled with contradictions and discrepancies. the Appellant's appeal was allowed due to: Material inconsistencies in the complainant's description of the accused.; Discrepancies in medical evidence, c) Failure to prove the case beyond reasonable doubt.
37. He submitted that PW3 testified that PW1 was allegedly medically examined on 9th December, 2019, allegedly seven days after the incident. However, PW1 and PW2 stated that the matter was reported on 16th December 2019, therefore this contradiction implies that the alleged defilement occurred around 2nd December, which conflicts with PW1's own testimony that the abuse occurred between 9th and 13th December, excluding 12th December. That in such a serious matter, he invited this Court to note and find that, this inconsistency undermines the credibility of the prosecution's narrative and raises doubt as to whether the medical officer and complainants were referring to the same incident or victim. In



support of the above, he relied on the case of Orango v. Omuom [2024] KEHC 9550 (KLR) where the High Court held that:

“Liability must be based on clear and consistent evidence, and contradictions in material facts undermine the prosecution’s case.”

38. The Appellant went on to submit that PW3 admitted during cross-examination that he could not confirm what object penetrated the complainant. Despite this, it stands unfortunate that the trial magistrate concluded that the Accused used his penis to defile PW1, even though there was no injury to his genitalia from the alleged road accident. It was the Appellant’s submissions that this conclusion lacked medical support and appears speculative. That indeed, Judicial findings must be based on evidence, not assumption. He relied on the case of R- v- WiZfrida Ito Zondo, Supreme Court Application No. 3 of 2021; the Supreme Court emphasized that: “Judicial conclusions must be grounded in evidence and not conjecture.”
39. The Appellant argued that the trial magistrate appeared predisposed to convict, disregarding the defence’s arguments including the absence of the complainant’s name in testimonies and family neglect thus veering into civil or family law territory. That this approach unjustly dismissed the defence case.
40. The Appellant submitted that it is clear that contradictions and inconsistencies, unless satisfactorily explained, would usually, but not necessarily, result in the evidence of a witness being rejected. He submitted that; the contradictions must be grave and point to deliberate untruthfulness as he has illustrated herein with regards to the two key witnesses of the prosecution. The Appellant faults the trial court’s approach in evaluating the evidence before it in this case which was incorrect. That the record does not show that the trial court considered the contradictions in the State’s case when it evaluated the evidence.
41. It was the Appellant’s submission that his case underscores the principle that where contradictions materially affect the prosecution’s case, the benefit of doubt must go to him regardless of the weight of his defence or appeal.
42. The Prosecution Counsel Ms. Agatha in response to the issue of contradictions in the prosecution’s case as submitted by the Appellant, submitted that there were no contradictions nor inconsistencies and even if they were, they are minor and do not go to the root of the Prosecution case hence this Honourable court should ignore them. The minor inconsistencies (if any) were satisfactorily explained and this shows that the Prosecution witnesses were truthful. The minor inconsistencies (if any) do not prejudice the Appellant.
43. Section 382 of the Criminal Procedure Code provides that:

“Subject to the provisions herein before contained, no finding, sentence or order passed by a court of competent jurisdiction shall be reversed or altered on appeal or revision on account of an error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during the trial or in any inquiry or other proceedings under this Code, unless the error, omission or irregularity has occasioned a failure of justice:

Provided that in determining whether an error, omission or irregularity has occasioned a failure of justice the court shall have regard to the question whether the objection could and should have been raised at an earlier stage in the proceedings.”



44. Reliance was placed on the case of *Ali Mwaro Kitsao v Republic* [2019] eKLR the learned judge states the following regarding contradictions:

“Finally, as regards the alleged inconsistencies and/contradictions in the prosecution case, it is trite law that inconsistencies unless satisfactorily explained would usually but not necessarily result in the evidence of a witness being rejected. See *Uganda vs Rutaro* [1976] HCB and *Uganda vs George W. Yiga* [1979] HCB 217). On this issue the court in *Philip Nzaka Watu v Republic* (2016) CR APP 29 OF 2015, had this to say:

“The first question in this appeal is whether the prosecution case was riddled with contradictions and inconsistencies of the magnitude that would make the conviction of the appellant unsafe. It cannot be gainsaid that to found a conviction in a criminal case, where the trial court has to be satisfied of the accused person 's guilt beyond reasonable doubt, the prosecution evidence must be cogent, credible and trustworthy. Evidence that is obviously self contradictory in material particulars or which is a mere amalgam of inconsistent versions of the same event, differing fundamentally from one purported eyewitness to another, cannot give the assurance that a court needs to be satisfied beyond reasonable doubt.”

45. However, it must be remembered that when it comes to human recollection, no two witnesses recall exactly the same thing to the minutest detail. Some discrepancies must be expected because human recollection is not infallible and no two people perceive the same phenomena exactly the same way.
46. Indeed, as has been recognized in many decisions of this Court, some inconsistency in evidence may signify veracity and honesty, just as unusual uniformity may signal fabrication and coaching of witnesses. Ultimately, whether discrepancies in evidence render it believable or otherwise must turn on the circumstances of each case and the nature and extent of the discrepancies and inconsistencies in question. Reliance was placed on the Court of Appeal decision in *Erick Onyango Odeng' vs Republic* [2014] eKLR also comes to mind. In this matter, the court cited with approval the Uganda Court of Appeal case of *Twehangane Alfred v. Uganda Criminal Appeal No. 139 of 2001, [2003] UGCA, 6* in which it was held as follows:

“With regard to contradictions in the prosecution's case the law as set out in numerous authorities is that grave contradictions unless satisfactorily explained will usually but not necessarily lead to the evidence of a witness being rejected. The court will ignore minor contradictions unless the court thinks that they point to deliberate untruthfulness or if they do not affect the main substance of the prosecution case.”

47. I have considered the issues raised by the Appellant which he considers to be inconsistent and contradicting the prosecutions case and I will address them as follows.
48. On the issue of failure to intervene or raise an alarm by PW1's siblings who were alleged to be in the house at the time of commission of the act or for them to attend court and corroborate PW1'evidence, I have perused the record which shows that at the time the two twin siblings were only aged about three (3) years old and could not be able to understand or comprehend what was happening for them to respond in whatever way and hence of no useful purpose for them to attend court and corroborate PW1's evidence.



49. On the issue of PW1 being medically examined on 9th December, 2019, allegedly seven days after the incident whereas PW1 and PW2 stated that the matter was reported on 16th December 2019, therefore this contradiction implies that the alleged defilement occurred around 2nd December, which conflicts with PW1's own testimony that the abuse occurred between 9th and 13th December, excluding 12th December 2019. I have again thoroughly re-analysed the documents produced by the Prosecution as exhibits, these include the P3 Form dated 16/12/2019 and signed by the OCS Machakos police station and the same having been filled and signed by a Doctor at Machakos Level 4 hospital on 19/12/2019, PRC Form dated 16/12/2019, Lab requisition Form dated 16/12/2019. All these documents confirm that indeed the victim went to the hospital on 16/12/2019 and the Doctor signed the P3 Form on 19/12/2019 as is shown therein. Logically and in the circumstances of this case the victim could not have been examined before the act. I believe the Doctor meant to say 19/12/2019 and not 9/12/2019 and this contradiction is excusable based on the documentary evidence adduced by the prosecution and which did not at all affect the main substance of the prosecution case.
50. On the issue about the Doctor stating in cross-examination that he was not aware of what had caused the penetration and the absence of spermatozoa, I wish to categorically find that the Doctor was not present when the act or incident occurred. All he was to inform the court is whether there was penetration of the victim's vagina which he did. In deed the Doctor confirmed that the victim's hymen was broken/ absent meaning it had been penetrated. It is my view also that it was unlikely that the Doctor would have found any spermatozoa in the victim's vagina seven days after the defilement.
51. Lastly, in regard to the issue of the Appellant having been injured in an accident and therefore not capable of defiling. From the evidence, the Appellant and his witnesses testified that the Appellant was injured earlier in the year. None of them testified if indeed the Appellant was still injured in December 2019 that he could not have defiled his daughter. The Appellant confirmed to the court that his penis was not hurt and was functioning just fine. It was about one year and half after the accident. The victim knows the Appellant as his father and she recalled even the simplest of details including the chain of events and what she wore on each of the dates the Appellant defiled her. I am convinced just like the trial court that an 8-year-old is no match to a grown man. She can easily be dragged by one hand of a grown man.
52. Consequently, I find that the facts and evidence on record about the defilement herein point a firm finger at the Appellant as the perpetrator. Thus, the prosecution proved the ingredient of penetration beyond reasonable doubt.

d. proper identification of the perpetrator

53. As stated under (c) above, PW1 knows the Appellant as his father and recalled even the simplest of details including the chain of events and what she wore on each of the dates the Appellant defiled her. PW2 testified that her young son told her the Appellant touched PW1 and PW1 also told her it was the Appellant her husband who defiled her. In this case, identification was by recognition which is the best form of identification. I find that the prosecution's identification of the Appellant to be solid.
54. Upon re-evaluating and re-analysing the totality of the evidence presented before the trial court, there is no doubt that the prosecution proved their case beyond reasonable doubt as to the offence of incest. The upshot is that the appeal as against conviction under the offence of incest therefore fails.



b. Whether the sentence should be interfered with.

55. As regards the life sentence that was imposed on the Appellant upon conviction, this Court is guided by the decision in Republic v Joshua Gichuki Mwangi SC Petition No. E018 of 2023 that the minimum sentences in the *Sexual Offences Act* are constitutional.
56. By virtue of the cited Supreme Court judgment in Republic v Joshua Gichuki Mwangi SC Petition No. E018 of 2023 the courts are bound by the minimum mandatory sentence as provided for by law more so by the *Sexual Offences Act* NO. 3 of 2006.
57. Looking at the circumstances of this case, the Appellant took advantage of his already _vulnerable daughter. The Appellant owed a duty of care to the victim as her biological father to protect her and provide for her but instead the Appellant turned into a beast and devoured her own child. The victim PW1 has to live with the very sad fact and reality that the Appellant, her father, defiled her, soiled her purity and robbed her of her virginity. I find the sentence to have been legal and as prescribed by law.
58. The upshot is that, I hereby find that this appeal lacks merit and is thus dismissed in its entirety. The conviction and sentence of the trial court is upheld.
59. Right of Appeal 14 days.

It is so ordered.

JUDGMENT WRITTEN, DATED AND SIGNED AT MACHAKOS THIS 3RD FEBRUARY 2026.

NOEL I. ADAGI

JUDGE

Delivered Virtually On Teams At Machakos This 3Rd February 2026

In the presence of:

