



REPUBLIC OF KENYA



**Mutuku v Republic (Criminal Appeal E028 of 2025)
[2026] KEHC 1150 (KLR) (5 February 2026) (Judgment)**

Neutral citation: [2026] KEHC 1150 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
CRIMINAL APPEAL E028 OF 2025
RC RUTTO, J
FEBRUARY 5, 2026**

BETWEEN

RICHARD MUTISYA MUTUKU APPELLANT

AND

REPUBLIC RESPONDENT

*(Being an appeal from the Judgment of Hon. D.N. Sure (P.M) at Kangundo
Court Sexual Offence Case No. E026 of 2023 delivered on 26th February 2025)*

JUDGMENT

A. Introduction

1. The appellant being aggrieved by the decision of the trial court that convicted him for the offence of defilement contrary to section 8(1) as read with section 8(3) of the [Sexual Offences Act](#) Cap 63A, Laws of Kenya, has lodged this appeal. He seeks that his conviction be quashed and the 20 years imprisonment sentence set aside.
2. The appeal is premised on the following grounds: that the Learned Trial Magistrate erred in matters of law and fact by failing to find that the whole case was marred with material inconsistencies and contradictions which went to the root of the charges facing him; failing to notice that essential ingredients or elements of the offence as charged were not proved to the required standard; failing to accord the accused person a fair trial pursuant to Articles 25 (c) and 50 (2) (g) (h) of [the Constitution](#) of Kenya; and imposed a sentence of twenty (20) years imprisonment which is manifestly harsh.

B. Background

3. Before the trial court, the appellant was charged with the offence of defilement contrary to section 8(1) as read with 8(3) of the [Sexual Offences Act](#). The particulars of the offence were that on 29th May 2023 at Tala Township in Matungulu Sub- county within Machakos County, he intentionally and



unlawfully caused his penis to penetrate the vagina of E.W.M, a child aged 14 years. In the alternative, he was charged with the offence of committing an indecent act with a child contrary to section 11(1) of the *Sexual Offences Act*. The particulars of the offence were that on 29th May 2023 at Tala Township in Matungulu Sub County within Machakos County, he intentionally and unlawfully touched the vagina of E.W.M, a child aged 14 years using his penis.

4. The appellant pleaded not guilty to the charges and to prove its case, the prosecution called 5 witnesses.

C. Prosecution case

5. PW1, Anastacia Mumbua Munyao, the complainant's mother, testified that on 29th May 2023 she was at work as a businesswoman and was waiting for her daughter, who was attending St. Mary Primary School, a nearby school. She stated that the pupils used to leave school at about 8.00 p.m. due to night preps, but on that day her daughter did not arrive at the expected time. Together with her husband, they proceeded to the school, where they found the gate closed. The gateman informed them that all students had already left the school. They then went to their shop but did not find her, after which they returned to the school and contacted the matron, who also confirmed that the complainant had left school. PW1 testified that they thereafter went to the police station to make a report and were advised to return the following day if their daughter did not come back, and even if she did, they were still directed to take her to the police station. She stated that the following day they went back to the school and met the head teacher, who inquired from the class teacher and confirmed that the complainant was present in school. When the complainant was summoned and asked about her whereabouts, she initially hesitated but later stated that she had slept at a boy's house.
6. PW1 further testified that her daughter informed them that while walking home from school, she met a man at the stage who greeted her, after which she could not recall what happened and later found herself naked in a dark room with a man. She stated that upon further interrogation at the police station, the complainant informed them that she knew the man as he worked in the market and subsequently led them to a shop where the man was arrested after she identified him. PW1 testified that her daughter recorded a statement in her absence. She confirmed that the complainant was 14 years old, having been born on 3rd September 2008. She further stated that together with her husband, they took their daughter to hospital where she was examined. PW1 testified that she was present during the arrest of the accused and identified him in court.
7. Upon cross-examination, PW1 stated that when they went searching for their daughter, they did not find her and that she had never previously seen her child in the company of the accused person. She testified that her daughter informed them that she had slept at "Kevo's" house and that she led the police to the place where the accused was working and identified him, although the identification document bore different names. She stated that she did not know whether her daughter had been in the company of other students when they left school. She further testified that her daughter informed them that the accused had instructed her to say that she had slept at her boyfriend's place when asked about her whereabouts.
8. The victim, PW2, E.W. gave unsworn evidence that she was 14 years old and in Grade 8 at St. Patrick's Primary School. She stated that on 29th May 2023 at around 8p.m, she was coming from school because of night preps and she was walking on the road heading to her parent's shop when she met the accused, a person who works in a shop near that of her parents. She testified that there were other students on the road but she was taking a different route and she was alone. She further stated that she never used to talk to the accused and she did not meet the accused in March. That further, she stated that the accused did not ask her to be his girlfriend until that morning when she found herself in his house. She stated that the accused greeted her and asked her her name and she responded and then she shook



his hand and felt something pricking her and she felt confused and afterwards, she stated that she did not know what happened.

9. She further testified that she woke up early in the morning because the accused woke her early and told her to go to the shower and go to school. When she was shown a statement showing the accused told him to sleep on the bed and started undressing her, she confirmed that it is true. She further stated that the house was partially dark and that the accused forced her to sleep with him which she did not want. She stated that the accused's house is single roomed and that she was forced into his house and also felt him forcing her on the bed. She stated that she resisted but the accused overpowered her and the accused forced himself on her. She stated that she did not know what was happening but she was refusing.
10. She stated further that she slept in his house and the next day, she went to school at 6:30a.m and that the accused told her not to go home because he would be arrested. That she then stayed in school until 7a.m when her parents went to school and she was then summoned by the head teacher and she was interrogated. She stated that she was scared that she did not say and she had lied that she had slept in their unfinished building but after she thought about it, she told them what had happened and she was taken to the police station and she told the police what happened and thereafter she was taken to Kangundo hospital and was examined. She stated that she took the police to the accused and that she was with her parents as well and then she stated that she also took them to where Kevin's works at a shop near her parents. She identified the accused as the one on the dock.
11. On cross-examination, PW2 stated that she is not lying as she saw the accused in the morning when she woke up. She stated that she gained consciousness when they reached the gate and that she asked the accused where they were heading to and that the accused informed her that she was being taken to his house. She stated that she could not scream as she had a problem with her throat because she had argued with the accused. She further stated that she did not see anyone because she could not see properly but also she did not hear people talking.
12. Upon re-examination, PW2 stated that when she woke up in the morning, she saw the accused who told her to go and shower and when she finished preparing, he opened the gate and escorted her outside.
13. PW3, Mikael Ndone Mutisya, testified that he resides in Tala. He stated that on 29th May 2023 at about 8.30 p.m., he was at his shop with his wife waiting for their daughter, E., who ordinarily arrived from school at around that time. When she delayed, they proceeded to the school to search for her, where they were informed that all students had already left. They thereafter went to the police station and made a report and were advised to return the following day. He testified that the next day, they went back to the school where their daughter was summoned and questioned about her whereabouts. He stated that they subsequently took her to the police station, where she was interrogated. PW3 further testified that their daughter led them, together with the police officers, to the accused's house, stating that she knew him. He identified the accused in court and stated that he knew him as a person who worked in a shop opposite his own.
14. Upon cross-examination, PW3 testified that they went to the school at about 8.30 p.m. to 9.00 p.m. and were informed that all students had already left. He stated that nothing belonging to the accused was found in the complainant's possession and that it was the complainant who identified the accused to the police leading to his arrest. He further testified that he did not personally investigate the matter but that he knew his child had slept in the accused's house and that she knew him. He added that his child would not have implicated the accused had she slept elsewhere.
15. PW4, CPL Mercy Wamnyonyi, the investigating officer attached to Tala Police Station, testified that on 29th May 2023, a report of a missing child was made. She stated that the complainant ordinarily



left school at about 8.00 p.m. and would go to her parents' place of business before proceeding home together, but on the material day, she did not report to her parents. The parents went to the school but did not find her. PW4 testified that on the following day, the parents returned to the police station with the complainant and informed them that they had found her at school. She stated that she interrogated the complainant, who informed her that she had been at the accused's house and narrated how she got there. PW4 testified that the complainant led her to the accused's house. She produced the complainant's birth certificate as an exhibit and identified the accused in court, stating that she did not know him prior to the incident.

16. Upon cross-examination, PW4 testified that she conducted investigations and established that the complainant, who was below the age of eighteen years, had been defiled. She further stated that the complainant positively identified the accused as the perpetrator.
17. PW5 Obiko Kemunto Merciline a clinical officer at Kanguundo Level Four hospital produced a P3 Form and a PRC Form. She testified that she examined the victim and noted normal mental status, outer system normal, normal external genitalia, laceration over the labia minora at 8 o'clock with an old torn hymen, whitish vaginal discharge, lab tests revealed negative pregnancy test, VDRL Negative, hepatitis negative, pus cells noted on urinalysis, pus cell on high vaginal swap, no spermatozoa was seen. She testified that she was treated and referred to the police station. Further, that the perpetrator's age was approximated to be 28 years old.
18. With these 5 witnesses, the prosecution rested its case. Upon the closure of the prosecution case, the trial court found that the prosecution had establish a prima facie case and the appellant was placed on his defence. He chose to give an unsworn statement and called no witnesses.

D. Defence case

19. DW1, the appellant, stated that he lives in Makueni and is unemployed. He stated that he could not recall the dates but he was working in Tala Market at an electronic shop when the police went with a school child and arrested him. He testified that he was taken to the police station and was then charged. Further, he stated that he does not know the complainant.
20. After the close of the defence case the appellant, the trial court considered the evidence on record and in a judgment delivered on 26th February 2025, found that the prosecution had proved its case and convicted the appellant of the offence of defilement. On sentencing the trial court considered all mitigating factors and sentenced him to serve 20 years imprisonment as a deterrent.

E. The Appeal

21. The appeal is as set out in the earlier paragraphs of this judgment. The appellant seeks that his conviction be quashed and the 20 years imprisonment sentence set aside. The appellant seeks to rely on his submissions dated 13th June 2025 while the respondent sought to rely on its submissions dated 15th September 2025. The parties' submissions are as follows;

a) Appellant's Submissions

22. The Appellant challenges both the conviction and sentence for the offence of defilement, contending that the prosecution failed to prove its case beyond reasonable doubt and that the trial court misapprehended the facts and the law. He amended his grounds of appeal to argue that the evidence relied upon was riddled with inconsistencies and contradictions; that crucial witnesses and exhibits were not availed; and that the learned trial magistrate erred in convicting on such evidence.



23. The Appellant submits that, this being a first appeal, the Court is under a duty to re-evaluate, re-analyse and re-assess the entire evidence on record and arrive at its own independent conclusion, while bearing in mind that it did not have the advantage of seeing and hearing the witnesses testify. He relies on the principles set out in *Okeno v Republic and Kiilu & Another v Republic* [2005] KLR 174.
24. On whether the prosecution proved its case beyond reasonable doubt, the Appellant argues that although there may not be dispute that the complainant was defiled, there was no cogent proof that it was the Appellant who committed the act. He contends that the complainant did not clearly comprehend or recall what transpired from the time she left school to the time she recorded her statement, and that her account amounted to guesswork. He further submits that the evidence did not conclusively place the complainant in the Appellant's house or demonstrate that he was the person who greeted her on the material night.
25. With regard to penetration, the Appellant submits that the medical evidence did not confirm recent penetration attributable to him. He points out that no spermatozoa were found, the hymen was described as old torn and the observed laceration could have been caused by other factors. He argues that, taken together with the complainant's inconsistent narration, the medical evidence fell short of establishing penetration beyond reasonable doubt or linking it to the Appellant.
26. The Appellant also challenges the reliability of identification, submitting that the incident allegedly occurred at night when visibility was poor and the complainant admitted that she could not see properly. He argues that there was a real possibility of error in identification and that no independent evidence was tendered to corroborate the complainant's assertion that she regained consciousness in the Appellant's house. He further notes that the alleged house was never visited or inspected by the police, thereby weakening the prosecution's case.
27. On the failure to call crucial witnesses and avail exhibits, the Appellant submits that other students who were allegedly with the complainant as she left school, as well as the school watchman, were not called to testify. He argues that these witnesses were material in establishing the complainant's state of mind, movements, and whether she was last seen with the Appellant. He further contends that the prosecution failed to conduct a search of the alleged house or produce any exhibits linking him to the offence. While relying on *Bukenya v Uganda* (1972) EA 549, *Ng'ang'a v Republic* [1981] KLR, *Wendo v Republic* (1953) 20 EA 166 and *Ransom Ahmed v Republic*, the Appellant submits that the failure to call essential witnesses and avail material evidence entitles the Court to draw an adverse inference against the prosecution.
28. The Appellant further argues that the trial court failed to address material contradictions and inconsistencies in the prosecution evidence, contrary to section 163(1)(c) of the *Evidence Act*. He submits that the complainant's testimony was inconsistent with her prior statements, particularly regarding her recollection of undressing and the events leading to the alleged defilement. He contends that these contradictions went to the root of the prosecution case and were not minor or peripheral. He relies on decisions such as *Vincent Kasyola Kin'goo v Republic* [2014] and *Tobias Ogada v Republic* Criminal Case No. 61 of 2018 to submit that unreconciled contradictions render the prosecution evidence unreliable and unsafe to sustain a conviction.
29. In conclusion, the Appellant submits that the prosecution did not discharge its burden of proof beyond reasonable doubt, that the essential ingredients of the offence particularly penetration and positive identification of the perpetrator were not proved and that the conviction was therefore unsafe. He urges the Court to allow the appeal, quash the conviction, set aside the sentence, and acquit him.
30. The appellant urged the Court to allow the appeal and set aside the conviction and sentence.



b) Respondent's Submissions

31. The Respondent opposes the appeal and submits that the conviction and sentence imposed by the trial court were proper, lawful and supported by the evidence on record. It is contended that the Appellant was correctly charged with the offence of defilement contrary to section 8(1) as read with section 8(3) of the *Sexual Offences Act*, with an alternative charge of committing an indecent act with a child under section 11(1) of the Act, arising from an incident that occurred on 29th May 2023 at Tala Township, Machakos County.
32. The Respondent submits that the prosecution called five witnesses and adduced sufficient evidence to establish all the essential ingredients of the offence. Upon the close of the prosecution case, the Appellant was placed on his defence, in which he denied knowing the complainant and claimed that he was arrested at his shop by police officers in the company of a minor. The Respondent notes that the Appellant has appealed against both conviction and sentence, alleging material inconsistencies in the prosecution case, failure to prove the elements of the offence, denial of a fair trial, and the imposition of a harsh sentence.
33. The Respondent reiterates that, as a first appellate court, this Court is required to re-evaluate and re-analyse the evidence afresh in accordance with the principles set out in *Okeno v Republic*. Addressing the Appellant's contention that the prosecution failed to prove the essential ingredients of defilement, the Respondent submits that the elements to be established are the age of the complainant, positive identification of the perpetrator and proof of penetration.
34. On the age of the complainant, the Respondent submits that this element was conclusively proved. PW1, the complainant's mother, testified that the complainant was born on 3rd September 2008 and produced her birth certificate, which was marked for identification. The age of the complainant was not disputed at trial. Further, PW5, a clinical officer, examined the complainant and confirmed that she was 14 years old at the time of examination, thereby corroborating the documentary and oral evidence on age.
35. With respect to identification, the Respondent submits that the complainant positively identified the Appellant as the perpetrator. The complainant testified that she met the Appellant while walking home from school with other students and described him as a person who worked at a shop near her parents' shop. She referred to him as "Kevo" during her testimony, demonstrating that the Appellant was known to her and was not a stranger. The Respondent further submits that the complainant spent the night in the Appellant's house and, upon waking up in the morning, was able to see and recognise him clearly because there was electricity. It is therefore argued that the complainant was in a proper state of mind to recognise the Appellant and that the identification was free from error.
36. On the issue of penetration, the Respondent submits that the complainant gave a detailed and consistent account of how the Appellant defiled her. She testified that although she could not recall the events immediately after being greeted, she found herself in the Appellant's house and later described how the Appellant forcefully penetrated her despite her resistance. She narrated how the Appellant overpowered her, spread her legs, and inserted his penis into her vagina, and further described the act as involving repeated pushing and pulling for a prolonged period. The Respondent submits that this testimony clearly demonstrated penetration.
37. On the issue of contradictions and inconsistencies, the Respondent submits that the discrepancies highlighted by the Appellant do not go to the root of the prosecution case. It is argued that the complainant's initial statement to her parents that she had slept in an unfinished building, followed by her later disclosure of the true events, was occasioned by fear and should not be construed as a



material contradiction undermining her credibility. The Respondent maintains that the trial court properly addressed these inconsistencies and correctly found that they were minor and did not affect the substance of the complainant's evidence. The trial court further found the complainant to be a truthful and reliable witness and formed the view that the complainant and the Appellant were known to each other prior to the incident.

38. The Respondent relies on the principles on the standard of proof beyond reasonable doubt as articulated in *Miller v Ministry of Pensions* [1947] 2 ALL E R 372 submitting that proof beyond reasonable doubt does not require absolute certainty but a high degree of probability. It is contended that the evidence adduced against the Appellant was sufficiently strong to meet this threshold and that any remote or fanciful possibilities in his favour could properly be disregarded.
39. On sentence, the Respondent submits that the sentence of 20 years' imprisonment was lawful, appropriate, and in strict compliance with the *Sexual Offences Act*. It is argued that the complainant was proved to be 14 years old at the time of the offence and that section 8(3) of the Act prescribes a minimum sentence of 20 years imprisonment for defilement of a child aged between twelve and fifteen years. While making reference to the case of *Robert Nyambani Mariara versus Republic* [2019] eKLR, the Respondent contends that the trial court considered the circumstances of the case as well as the Appellant's mitigation before imposing the sentence and that the sentence was therefore mandatory and not excessive.
40. The Respondent accordingly urges the Court to find that the prosecution proved its case to the required standard and to dismiss the appeal.

F. Analysis and Determination

41. This being a first appeal, this Court has a duty to reconsider and re-evaluate the evidence presented before the trial court and arrive at its own independent conclusion. However, in so doing, the Court must remain mindful that it did not see or hear the witnesses testify. See the cases of *Pandya v R* [1957] EA 336; *Ruwalla v R* [1957] EA 570 and *Kisumu Criminal Appeal No. 28 of 2009 David Njuguna Wairimu v Republic* [2010] eKLR.
42. Having considered the record of appeal as well as the submissions by parties, I discern the following issues for determination:
 - a. Whether the offence of defilement was proved beyond reasonable doubt; and
 - b. Whether the sentence was harsh.
 - a. Whether the offence of defilement was proved
 1. Section 8(1) of the *Sexual Offences Act* provides that "a person who commits an act which causes penetration with a child is guilty of an offence termed defilement". Section 8(3) further stipulates that a person who commits an offence of defilement with a child between the age of twelve and fifteen years is liable upon conviction to imprisonment for a term of not less than twenty years.
 2. In the case of *George Opondo Olunga v Republic* (2016) eKLR the ingredients for the offence of defilement were set out as:
 - a. Proof of the age of the victim;
 - b. Proof of penetration or indecent act; and



c. Identification of the perpetrator.

45. On age, the complainant's age was established beyond dispute. PW1 testified that she was born on 3rd September, 2008, a fact affirmed by her birth certificate, which was tendered in court by the investigating officer as an exhibit. At the time of the offence, she was 14 years old, indisputably a minor under the law. The trial court's conclusion that she was a child within the legal definition was therefore sound and supported by documentary evidence, leaving no room for ambiguity. Notably, the Appellant has not disputed this fact in his appeal before this Court.
46. On penetration, this element was convincingly substantiated as the complainant gave a clear account of how the Appellant defiled her. She testified that although she could not recall the events immediately after being greeted, she found herself in the Appellant's house and later described how the Appellant forcefully penetrated her despite her resistance. She narrated how the Appellant overpowered her, spread her legs, and inserted his penis into her vagina and further described the act as involving repeated pushing and pulling for a prolonged period. The Respondent submits that this testimony clearly demonstrated penetration. This testimony was materially corroborated by the clinical findings of PW5 who examined the complainant and noted laceration over the labia minora at 8 o'clock with an old torn hymen. This medical evidence aligned with her narrative, providing a robust foundation for this element of the offence.
47. In the case of *Bassita Hussein v Uganda*, Supreme Court Criminal Appeal No 35 of 1995, the Court stated thus;
- “The act of sexual intercourse or penetration may be proved by direct or circumstantial evidence. Usually the sexual intercourse is proved by the victims over evidence and corroborated by medical evidence or other evidence.”
48. Consequently, guided by the above authority, I find that the evidence of the victim and PW5 was sufficient to prove the ingredient of penetration and there is no reason to disturb the finding of the trial court. Notably again, in his own submissions before this Court, the Appellant states that there is no dispute that the complainant might have been defiled (hence penetrated). I thus find that penetration as an ingredient, was proved.
49. Turning to identification of the perpetrator, the Appellant challenges his conviction on the basis that he was not properly identified as the perpetrator. He contends that the complainant did not clearly comprehend what transpired from the time she left school up to the time she recorded her statement and that there existed a possibility that the offence may have been committed by another person. He further argues that the circumstances prevailing at the material time, including darkness, rendered identification unreliable. The record, however, reveals that this was not a case of identification of a stranger. The complainant testified that she met the Appellant on her way home from school and described him as a person who worked at a shop near her parents' shop. During her testimony, she referred to the Appellant by the name “Kevo,” demonstrating prior familiarity. The evidence therefore points to recognition rather than mere identification.
50. The complainant further testified that she spent the night in the Appellant's house and that in the morning, she was able to see and recognize him clearly as there was electricity. Further, the complainant had sufficient time in the morning to interact and see the Appellant as he woke her up and had her have a shower before opening the gate for her. The totality of this evidence places the complainant in close proximity with the Appellant for a prolonged period and under conditions that enabled visual recognition. The Court is satisfied that the complainant had adequate opportunity to recognize the



Appellant both by virtue of their prior acquaintance and the circumstances under which she interacted with him.

51. While the complainant stated that she could not remember certain events immediately after being greeted, this alone does not negate her ability to recognize the Appellant as the person she was with. Her testimony, taken as a whole, consistently places the Appellant at the centre of the events complained of. The trial court also addressed this issue and formed the view that the complainant was a truthful witness and that the two were known to each other prior to the incident.
52. This Court has considered the totality of the evidence, including the complainant's description of the Appellant, the prior familiarity between them, the duration of interaction, and the lighting conditions in the morning. The Court finds that the circumstances were conducive to positive recognition and that the possibility of mistaken identity as a matter of fact did not avail and/or was minimal. Accordingly, this Court finds that the prosecution proved, beyond reasonable doubt, that the Appellant was positively identified as the perpetrator of the offence. The ingredient of identification was therefore satisfactorily established.
53. The Appellant further raised two contentions in his submissions. First that there were contradictions and inconsistencies in the prosecution's evidence. Particularly, that what the complainant first told the police contradicts her testimony in Court. I find this allegation to lack merit. A court decides a case based on the evidence adduced before it and not what is allegedly said to have been uttered outside court. In any event, the Appellant has not pin-pointed the alleged contradictions and inconsistencies in the prosecution's evidence that are material and prejudicial to his case.
54. Secondly, it is submitted that crucial witnesses were not called by the prosecution. The alleged witnesses are said to be fellow students that were with the complainant when she left school and the watchman. I have analyzed the circumstances of this case and while cognizant of the jurisprudence in the *Bukenya vs Uganda* case, I find that these set of witnesses were not crucial to the case. The watchman only role was that he confirmed to the parents of the complainant that all students had left school. The complainant stated that she parted way with other students after leaving school and took a different route alone. Hence these set of witnesses were never at the scene of the incident and there is no evidence that they were in the company of either the accused of complainant at the alleged time of the incident so as to make their testimony material rendering them crucial witnesses. I thus dismiss this allegation.
55. Flowing from the foregoing I find that the prosecution proved all the ingredients of defilement. I find no reason to disturb the finding of the trial court. This ground must fail as it surely does. The upshot is that the conviction of the Appellant was sound and I find no reason to upset the same. The conviction is affirmed.

b. Whether the sentence was harsh

56. The Appellant was convicted of the offence of defilement contrary to section 8(1) as read with section 8(3) of the *Sexual Offences Act*. The evidence on record established that the complainant was aged 14 years at the time of the offence. Section 8(3) of the *Sexual Offences Act* provides that a person who commits the offence of defilement with a child between the age of twelve and fifteen years is liable upon conviction to imprisonment for a term of not less than twenty years. The provision is couched in mandatory terms and sets a statutory minimum sentence.
57. The record shows that the trial court considered the circumstances of the case as well as the Appellant's mitigation before passing sentence. Having found that the complainant fell within the age bracket contemplated under section 8(3) of the Act, the trial court sentenced the Appellant to twenty years imprisonment, which is the minimum sentence prescribed by law.



- 58. This Court is mindful that sentencing is primarily a matter of discretion for the trial court, and an appellate court will only interfere where the sentence is illegal, founded on wrong principles, or is manifestly excessive in the circumstances of the case. In the present matter, the sentence imposed was lawful and was guided directly by the statutory framework governing sexual offences. For the above reasons, I hereby affirm the sentence of twenty (20) years imprisonment imposed on the charge.
- 59. Following the above therefore, the appeal is dismissed in its entirety and the trial court decision on conviction and sentence is upheld.
- 60. Orders accordingly.

DATED, SIGNED AND DELIVERED AT MACHAKOS THIS 5TH DAY OF FEBRUARY 2026.

RHODA RUTTO

JUDGE

In the presence of;

.....Appellant

.....Respondent

Selina Court Assistant

