Chacha v Republic (Criminal Appeal E076 of 2025)
[2026] KEHC 5010 (KLR) (21 April 2026) (Judgment)

Neutral citation: [2026] KEHC 5010 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT MIGORI

CRIMINAL APPEAL E076 OF 2025

DKN MAGARE, J

APRIL 21, 2026

BETWEEN

LUCAS AMOS CHACHA ..... APPELLANT

AND

REPUBLIC ..... RESPONDENT

JUDGMENT

1. This appeal arises from the judgment of the trial court, Hon. M. O. Obiero (Principal Magistrate) in Kehancha PMCSO No. E020 of 2024.

2. The Appellant was charged with defilement contrary to Section 8(1) & (3) of the *Sexual Offences Act* No. 3 of 2006. The particulars of the offence were that on diverse dates between January 2023 and 28th December 2023, at [particulars withheld] area in Kuria west sub-county within Migori County, the appellant wilfully and unlawfully caused his penis to penetrate the vagina of F.G, a child aged 14 years.

3. The Appellant was arraigned in court on 29.04.2024, and he denied the charges. A not-guilty plea was consequently entered. The trial court considered the case and rendered judgment. The Court found the Appellant guilty and convicted him of the offence of defilement. The Appellant was also sentenced to 20 years' imprisonment.

4. The Appellant, aggrieved, lodged this appeal. The Petition of Appeal raised the following grounds:

    a. That the trial court erred in both law and fact by ignoring the provision of illegal detention by the complainant's father for 14 days as stipulated under Article 25(a) of the Kenyan Constitution 2010.

    b. That I did not plead guilty to the charge herein.

    c. That the trial court erred in both law and fact by failing to comply with the provision of Article 50(2)(g)(h) of the Kenyan Constitution 2010.

d. That the trial court erred in both law and facts by not considering that the ingredients of the offence herein were not proved to the required standard in law and facts. I even complained that DNA be done, but the same was ignored.

e. That the trial court erred in both law and facts by refusing to consider my defence and mitigation.

Evidence

5. The minor testified that she was 14 years old. Between January 2023 and December 2023, the appellant used to go to her room and have sex. She produced her certificate of birth, treatment notes and P3 form. The accused was said to be a boyfriend. The minor stated that she was in class 8. She was taken to Kehancha Hospital, examined, and treated. She was examined and found to be pregnant.

6. On cross-examination, she stated that the child died after she gave birth. She stated that the father arrested the appellant and took him to the police station in April 2024 when it was discovered that the minor was pregnant. She stated it was the appellant who impregnated her. She stated that there was a day her brother saw him, but did not report.

7. The second witness was the complainant's father, who testified that the minor is her 14-year-old daughter. He suspected that she was pregnant. The father told the minor who disputed. He went to the chemist and bought a pregnancy kit.

8. When he came back, the minor told him that she was pregnant and that the appellant was the culprit. He went and found the appellant. He incarcerated the appellant in his house. Meanwhile, the complainant had run away. The complainant was examined, and the matter was reported at Kehancha Police Station.

9. He said that he detained the appellant for one day and not 14 days. He arrested the appellant on 24.04.2024 and took him to the police station on 25.04.2024. He detained the appellant in his home for one day. In re-examination, he stated that he detained the appellant for one day, not 14 days.

10. PC 23500PC (W) Lilian Opiyo, attached to Kehancha police station, was on duty on 27.10.2024. She perused the file and noted that a defilement case had been reported and that the accused was in custody. There was a report that someone had been detained in someone's home. The officers found a minor and a suspect who was being detained. He was locked in a room and tied with a rope. She stated that it transpired that the appellant and the complainant were boyfriend and girlfriend.

11. On cross-examination, she stated that they went to the home to rescue the appellant from the said home where he had been detained. The rescue was on 25.04.2024. She stated that the complainant reported that she was impregnated by the appellant. She stated that the complainant went to the station with treatment notes.

12. PW4 was Francis Manyinza, a Chief Clinical Officer stationed at Kehancha sub-county hospital. He has over 28 years of experience. They examined the complainant who had a palpable mass with a 5-month pregnancy. She was said to be 13 years old. The pregnancy test was positive. Spermatozoa were seen. She was 23 weeks pregnant. She had been examined by George Olocho. He produced ultrasound, treatment notes and the P3 form.

13. She testified on cross-examination that the minor was pregnant and spermatozoa were seen. The minor was due to deliver in August 2024. The appellant was not examined, and DNA was not analyzed either. The appellant was placed on his defence.

14. The appellant stated that in the year 2024, he was in Kehancha from February 2024. He started working in a goldmine and was arrested by Martin Mwita, where he was claiming Ksh. 1,000/= from him. He detained him in his home for 14 days on 24.4.2024. The police officers took the appellant into custody.

15. On cross-examination, he said he heard evidence of PW1 and PW2. He stated that PW2 detained him for 14 days.

16. The court stated that the appellant was arrested in the gold mine, and the three issues were penetration, age of the minor, and whether it is the accused who caused the penetration. The court found that the minor was 13 years old at the time. The court noted that the minor was penetrated and, as a result, she conceived. The court stated that, as per the charge sheet, it is the appellant who penetrated the minor. She stated that the complainant was firm that it was the appellant who defiled her. There was no consideration of the defence or the medical evidence at all.

Submissions

17. The appellant filed undated submissions that he was a 17-year-old Tanzanian national and did not know the laws of Kenya. He came to Kenya after he lost both parents. The complainant's father arrested him and detained him for 14 days, subjected him to torture and inhuman treatment to force him to admit an offense he did not know about. He was rescued by the police, but the court did not deal at all with the detention in a private home and torture. He stated that he was working in a mine until February 2024, when the events took place. He stated that the alarm was pregnancy, but the court did not address the question of DNA. He stated that there was no evidence of defilement, giving birth, or even his involvement.

18. The state submitted that all the particulars of defilement were proved. The defence did not displace the cogent evidence tendered.

Analysis

19. This being a first appeal, this court is under a duty to re-evaluate and assess the evidence and make its own conclusions. It must, however, keep at the back of its mind that a trial court, unlike the appellate court, had the advantage of observing the demeanour of the witnesses and hearing their evidence firsthand. The duty of the first appellate court remains as set out in the Court of Appeal for Eastern Africa in Pandya v Republic [1957] EA 336 as follows:-

> "On a first appeal from a conviction by a Judge or magistrate sitting without a jury the appellant is entitled to have the appellate court's own consideration and views of the evidence as a whole and its own decision thereon. It has the duty to rehear the case and reconsider the witnesses before the Judge or magistrate with such other material as it may have decided to admit. The appellate court must then make up its own mind not disregarding the judgment appealed from but carefully weighing and considering it. When the question arises which witness is to be believed rather than another and that question turns on manner and demeanor, the appellate court must be guided by the impression made on the Judge or magistrate who saw the witness but there may be other circumstances, quite apart from manner and demeanor which may show whether a statement is credible or not which may warrant a court differing from the Judge or magistrate even on a question of fact turning on the credibility of witnesses whom the appellate court has not seen."

20. This was further addressed in the case of Okeno v Republic [1972] EA 32 at 36, where the East Africa Court of Appeal stated on the duty of the Court on a first appeal:

> " An appellant on a first appeal is entitled to expect the evidence as a whole to be submitted to a fresh and exhaustive examination (Pandya v. R., [1957] E. A. 336) 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. (Shantilal M. Ruwala v. R., [1957] E.A. 570). It is not the function of a 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 draw its own conclusions. Only then can it decide whether the magistrate's findings should be supported. In doing so, it should make allowance for the fact that the trial court has had the advantage of hearing and seeing the witnesses, see Peters v. Sunday Post, [1958] E. A. 424."

21. The issue in this case is whether the prosecution proved its case to the required standards. Most oft quoted English decision of by Viscount Sankey L.C in the case of H.L. (E) Woolmington v DPP [1935] A.C 462 pp 481, comes in handy in describing the legal burden of proof in criminal matters, that;

> " Throughout the web of the English Criminal Law one golden thread is always to be seen, that it is the duty of the prosecution to prove the prisoner's guilt subject to what I have already said as to the defence of insanity and subject also to any statutory exception. If at the end of and on the whole of the case, there is a reasonable doubt, created by the evidence given either by the prosecution or the prisoner, as to whether [the offence was committed by him], the prosecution has not made out the case and the prisoner is entitled to an acquittal. No matter what the charge or where the trial, the principle that the prosecution must prove the guilt of the prisoner is part of the common law of England and no attempt to whittle it down can be entertained."

22. In the case of R v Lifchus {1997}3 SCR 320 the Supreme court of Canada explained the standard of proof as doth:-

> " The accused enters these proceedings presumed to be innocent. That presumption of innocence remains throughout the case until such time as the crown has on evidence put before you satisfied you beyond a reasonable doubt that the accused is guilty...the term beyond a reasonable doubt has been used for a very long time and is a part of our history and traditions of justice. It is so engrained in our criminal law that some think it needs no explanation, yet something must be said regarding its meaning. A reasonable doubt is not imaginary or frivolous doubt. It must not be based upon sympathy or prejudice. Rather, it is based on reason and common sense. It is logically derived from the evidence or absence of evidence. Even if you believe the accused is guilty or likely guilty, that is not sufficient. In those circumstances you must give the benefit of the doubt to the accused and acquit because the crown has failed to satisfy you of the guilty of the accused beyond a reasonable doubt. On the other hand you must remember that it is virtually impossible to prove anything to an absolute certainty and the crown is not required to do so. Such a standard of proof is impossibly high. In short if, based upon the evidence before the court, you are sure that the accused committed the offence you should convict since this demonstrates that you are satisfied of his guilty beyond reasonable doubt."

23. The legal burden refers to the burden of proof which remains constant throughout the trial. It is the obligation of a party to establish the facts and contentions necessary to support its case, in this case the prosecutor. According to Halsbury's Laws of England, 4th Edition, Volume 17, paras 13 and 14:

> " The legal burden is the burden of proof which remains constant throughout a trial; it is the burden of establishing the facts and contentions which will support a party's case. If at the conclusion of the trial he has failed to establish these to the appropriate standard, he will lose. The legal burden of proof normally rests upon the party desiring the court to take action; thus a claimant must satisfy the court or tribunal that the conditions which entitle him to an award have been satisfied. In respect of a particular allegation, the burden lies upon the party for whom substantiation of that particular allegation is an essential of his case. There may therefore be separate burdens in a case of with separate issues."

24. The standard of proof required in such cases was addressed by Brennan, J. in the United States Supreme Court decision of In re Winship 397 U.S. 358 (1970), at pages 361–364, where he stated that:

> " The accused during a criminal prosecution has at stake interests of immense importance, both because of the possibility that he may lose his liberty upon conviction and because of the certainty that he would be stigmatised by the conviction...Moreover use of the reasonable doubt standard is indispensable to command the respect and confidence of the community. It is critical that the moral force of criminal law not be diluted by a standard of proof that leaves people in doubt whether innocent men are being condemned."

25. The Appellant was charged with defilement contrary to Section 8(1) & (3) of the *Sexual Offences Act* No. 3 of 2006. PW1 was said to be 14 years old. I reproduce Section 8 (1)-(4) of the *Sexual Offences Act* as follows:

(1) A person who commits an act which causes penetration with a child is guilty of an offence termed defilement.

(2) A person who commits an offence of defilement with a child aged eleven years or less shall upon conviction be sentenced to imprisonment for life.

(3) 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.

(4) A person who commits an offence of defilement with a child between the age of sixteen and eighteen years is liable upon conviction to imprisonment for a term of not less than fifteen years.

26. The appellant gave a defence that was not considered. The court should at least even try to look at the defense. One of the difficulties I noted in the judgment is what I can call the consistent inconsistencies. The complainant's father arrested the appellant and held him for 14 days incommunicado. He alleged that he held him for only one day, awaiting the minor to identify the appellant. This was illegal. It was the complainant's duty to report to the police. It will be foolhardy to imagine that after holding the appellant for 14 days, he was waiting for the minor to come and identify him. It should be the reverse; the minor should first identify the perpetrator before arrest.

27. This is compounded by the medical evidence. PW4 confirmed that the minor was examined on 30.4.2024. The offense was alleged to have occurred between January 2023 and 28.12.2023. However, on 30.4.2024, the following were found:

a. The minor was 5 months pregnant.

b. There was spermatozoa.

28. The spermatozoa could not have survived from December 2023 to 30.4.2024. Even if it was meant to show that the sex continued after December 2023, the appellant was arrested 14 days to 24.04.2024. Even if we believe PW2, that he arrested the appellant on 24.04.2024, there could not have been spermatozoa on 30.04.2024, 6 days later. This creates doubt as to the ownership of the spermatozoa. The appellant was arrested, and the complainant's father had detained him in his house. This was the basis of the alleged admission by the minor. This kind of coercion soiled the evidence irredeemably.

29. The defence was corroborated by part of the evidence of PW2 that he went to Kandenge, where the appellant was working. PW2 was trying to put the appellant and complainant together. It is clear that the appellant and the complainant were coerced. PW2 stated that they detained the appellant so that the girl could identify him. This was preposterous as it ended being a poisoned chalice.

30. The last aspect was that the medical reports were already done and brought to the police station. Surprisingly, the documents produced relate to 23.06.2024. The documents allegedly brought to the police on 25.04.2024 were not produced. Given the contradictions, the court finds no explanation for the presence of spermatozoa on the day of the examination. Having spoiled the chain of custody by abducting the appellant, the evidence cannot be relied on. The way to treat contradictions in a case was stated by the Court of Appeal in Jackson Mwanzia Musembi v Republic [2017] KECA 748 (KLR), the court of appeal [Kihara Kariuki (PCA), W. Karanja & Okwengu, JJ.A held as follows:

> " 13.... As noted by the Uganda Court of Appeal in Twehangane Alfred v Uganda-Criminal Appeal No 139 of 2001, [2003] UGCA, 6 it is not every contradiction that warrants rejection of evidence. As that court put it:
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> 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's case.
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> 14. Similarly in Philip Nzaka Watu v R [2016] eKLR this Court in its own words expressed itself thus-
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> 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. 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.

31. The medical evidence did not support the version of evidence tendered by the prosecution. In Philip Nzaka Watu v Republic [2016] eKLR, the Court of Appeal held that:

> "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. 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. Indeed as has been recognised 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."

32. The next question is corroboration. Strictly speaking, corroboration is not required if section 124 of the *Evidence Act* is applicable. The said section provides as follows:

Notwithstanding the provisions of section 19 of the *Oaths and Statutory Declarations Act* (Cap. 15), where the evidence of the alleged victim is admitted in accordance with that section on behalf of the prosecution in proceedings against any person for an offence, the accused shall not be liable to be convicted on such evidence unless it is corroborated by other material evidence in support thereof implicating him:

Provided that where in a criminal case involving a sexual offence the only evidence is that of the alleged victim of the offence, the court shall receive the evidence of the alleged victim and proceed to convict the accused person if, for reasons to be recorded in the proceedings, the court is satisfied that the alleged victim is telling the truth.

33. The court did not record any reason for believing that the appellant was telling the truth. It is not enough to state that the witness was firm. Secondly, the complainant was not the only person. In fact, the complainant stated that her brother saw the appellant in the house but did not report. This is a witness who should have been called. What then does the court take of this? Adverse evidence should be made. It must be recalled that no number of witnesses is required to prove a fact. Section 143 of the *Evidence Act* (Cap 80 Laws of Kenya) provides as follows:-

> "No particular number of witnesses shall in absence of any provision of the law to the contrary be required for proof of any fact."

34. There is no requirement to call a superfluity of witnesses. However, there must be at least a bare minimum of witnesses to prove a charge. Where key witnesses are not called, and the case is wholly, then an adverse inference must be made for failure to call such. In the circumstances of this case, failure to call a brother who allegedly witnessed must be construed as evidence that no such incident took place. In the case of Donald Majiwa Achilwa & 2 others v Republic [2009] KECA 163 (KLR), the Court of Appeal [S.E.O. Bosire, P.N. Waki and J.W. Onyango Otieno] stated as follows:

The law as it presently stands, is that the prosecution is obliged to call all witnesses who are necessary to establish the truth in a case even though some of those witnesses' evidence may be adverse to the prosecution case. However, the prosecution is not bound to call a plurality of witnesses to establish a fact. Where, however, the evidence adduced barely establishes the prosecution case, and the prosecution withholds a witness, the court, in an appropriate case, is entitled to infer that had that witness been called his evidence would have tended to be adverse to the prosecution case. (See Bukenya & Others v. Uganda [1972] EA 549).

35. The foregoing had earlier been dealt with in the case of Keter v Republic [2007] 1 EA 135, where the court held inter alia:

> " The prosecution is not obliged to call a superfluity of witnesses, but only such witnesses are sufficient to establish the charge beyond any reasonable doubt."

36. Further, a child was born. The appellant was said to be the new minor's father. While DNA is not necessary to prove defilement, in a case where parties were coerced by PW2, DNA could have been necessary. Section 36 of the *Sexual Offences Act* provides as follows:

(1) Notwithstanding the provisions of section 26 of this Act or any other law, where a person is charged with committing an offence under this Act, the court may direct that an appropriate sample or samples be taken from the accused person, at such place and subject to such conditions as the court may direct for the purpose of forensic and other scientific testing, including a DNA test, in order to gather evidence and to ascertain whether or not the accused person committed an offence.

(2) The sample or samples taken from an accused person in terms of subsection (1) shall be stored at an appropriate place until finalization of the trial.

(3) The court shall, where the accused person is convicted, order that the sample or samples be stored in a databank for dangerous sexual offenders and where the accused person is acquitted, order that the sample or samples be destroyed.

(4) The dangerous sexual offenders databank referred to in subsection (3) shall be kept for such purpose and at such place and shall contain such particulars as may be determined by the Cabinet Secretary.

(5) Where a court has given directions under subsection (1), any medical practitioner or designated person shall, if so requested in writing by a police officer above the rank of a constable, take an appropriate sample or samples from the accused person concerned.

(6) An appropriate sample or samples taken in terms of subsection (5)-

(a) shall consist of blood, urine or other tissue or substance as may be determined by the medical practitioner or designated person concerned, in such quantity as is reasonably necessary for the purpose of gathering evidence in ascertaining whether or not the accused person committed an offence or not; and

(b) in the case a blood or tissue sample, shall be taken from a part of the accused person's body selected by the medical practitioner or designated person concerned in accordance with accepted medical practice.

(7) ...

37. The question of illegal detention did not affect the crime itself. It affected the evidence that was harvested illegally when PW2 took it upon himself to arrest and detain the appellant herein without trial. It affected the right to a fair trial since during the period the minor was forced to stay with the appellant until she confessed to having sex with him. The court, however, failed to note the presence of spermatozoa long after the appellant was detained.

38. The appellant is entitled, upon bringing a proper constitutional petition for compensation for illegal abduction and holding the young Tanzanian national then aged 17/18 years. Kenya is a country of laws, and we must never descend to the level others have reached. We must go higher even when dealing with emotive issues. In the case of Raila Amolo Odinga & another v. Independent Electoral and Boundaries Commission & 2 others [2017] eKLR, the supreme court [Maraga, CJ & P, Mwilu, DCJ & V-P, Ojwang, Wanjala, Njoki and Lenaola, SCJJ), held as follows:

393. It is also our view that the greatness of a nation lies not in the might of its armies important as that is, not in the largeness of its economy, important as that is also. The greatness of a nation lies in its fidelity to *the Constitution* and strict adherence to the rule of law, and above all, the fear of God. The Rule of law ensures that society is governed on the basis of rules and not the might of force. It provides a framework for orderly and objective relationships between citizens in a country. In the Kenyan context, this is underpinned by *the Constitution*.

393. And as Soli J Sorabjee, a former Attorney General of India once wrote, the rule of law "is the heritage of all mankind" and "a salutary reminder that 'wherever law ends, tyranny begins. Cast the rule of law to the dogs, Lutisone Salevao once observed "and government becomes a euphemistic government of men..." He adds: "History has shown (sadly, I might add) that even the best rulers have fallen prey to the cruel desires of naked power, and that reliance on the goodwill of politicians is often a risky act of good faith. The moment we ignore our Constitution the Kenyans fought for decades, we lose it.

39. Allowing a young Tanzanian national to be illegally, unprocedurally, and unconstitutionally detained is anathema to both the rule of law and the constitutional order. This leads to a breach of the right to a fair hearing. It is different where there was an exceeding of time while in lawful custody. PW2 had no authority to illegally detain the appellant in his home for 14 days.

40. In regard to the question of breach of Article 50(2)(g) and (h) of *the Constitution* of Kenya, the appellant was informed of this right but opted not to take an advocate. However, the appellant was a foreign national. Under article 36(b) of the Vienna Convention on Consular Relations 1963, the appellant had a right to have his country's consulate informed of the arrest. The appellant should have been informed of the right under Article 36(b) of the Vienna Convention on Consular Relations 1963. The same provides as follows:

> (b) If he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph;

41. This was not complied with. It does not matter that the consulate of the United Republic of Tanzania could not have helped. The appellant at least had that right which was taken away. This was addressed

succinctly in the case of LaGrand Case (Germany V. United States of America, where the ICJ decided as follows:

> "Finds that, by not informing Karl and Walter LaGrand without delay following their arrest of their rights under Article 36, paragraph I (b), of the Convention, and by thereby depriving the Federal Republic of Germany of the possibility, in a timely fashion, to render the assistance provided for by the Convention to the individuals concerned, the United States of America breached its obligations to the Federal Republic of Germany and to the LaGrand brothers under Article 36, paragraph 1."

42. However, having found that the appeal is merited, the court does not find it necessary to address the effect of failure to inform the appellant of his rights to a fair trial, especially as a foreign national and a citizen of a partner state and signatory to the treaty for the establishment of the East African Community.

43. The court did not take any time to ascertain the age of the appellant, who was apparently a minor at the time of the plea. It is unnecessary to deal with this issue now that the evidence did not prove defilement. The prosecution's evidence was clear that the appellant was a boy. The appellant was denied his right to a fair hearing, contrary to Article 25(c), which provides that the right to a fair trial cannot be limited.

44. Having found so, the appeal is allowed and the charge of defilement dismissed. The appellant is set free unless otherwise lawfully held.

Order

1. I make the following final orders:
    a. This appeal is allowed. The conviction and sentence are set aside.
    b. The appellant is set free unless otherwise lawfully held.
    c. On the question of breach of his rights, the appellant is at liberty to institute appropriate proceedings.
    d. The Appellant to be removed from Sexual Offenses Register.
    e. 14 days right of appeal.
    f. File is closed.

DELIVERED, DATED AND SIGNED AT NYERI ON THIS 21ST DAY OF APRIL, 2026.

Judgment delivered through Microsoft Teams Online Platform.

KIZITO MAGARE

JUDGE

In the presence of: -

Appellant present

Mr. Kihara for the State

Sgt. Kitur Patrick at Kisumu Maximum Prison

Court Assistant – Michael/Martin

M. D. KIZITO, J.