



REPUBLIC OF KENYA



**KENYA LAW**  
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**Gitau v Republic (Criminal Appeal 97 of 2019)  
[2025] KECA 1208 (KLR) (4 July 2025) (Judgment)**

Neutral citation: [2025] KECA 1208 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAKURU  
CRIMINAL APPEAL 97 OF 2019  
JM MATIVO, PM GACHOKA & GV ODUNGA, JJA  
JULY 4, 2025**

**BETWEEN**

**JOSEPH NJOROGE GITAU ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(An appeal from the judgment of the High Court of Kenya at Naivasha,  
(R. Mwongo, J.) dated 15th October, 2019 in CRA No. 34 of 2017)*

**JUDGMENT**

1. On 27<sup>th</sup> July 2016, Joseph Njoroge Gitau, (the appellant) was indicted at the Chief Magistrate’s Court at Naivasha facing the offence of defilement contrary to section 8 (1) as read with section 8 (2) of the *Sexual Offences Act* (the Act) in Criminal case (S.O.) No. 46 of 2016. The accusation was that on the 26<sup>th</sup> day of July 2016 at [Particulars Withheld]e in Naivasha Sub-County, within Nakuru County, he intentionally and unlawfully caused his penis to penetrate the vagina of VW, a child aged 9 years. He faced an alternative charge of committing an indecent act with a child contrary to section 11 (1) of the Act. It was alleged that he unlawfully and intentionally touched the vagina of said VW, a child aged 9 years.
2. To prove its case, the prosecution called a total of 4 witnesses, namely, the complainant (PW1), the complainant’s mother (PW2), a clinical officer (PW3) and a police Officer (PW4). The defence case rested on his unsworn testimony. He did not call any witness in support of his defence. In a nutshell, the prosecution case was that the appellant defiled the complainant and that from the totality of the evidence, all the ingredients of the offence were established. The crux of the appellant’s defence as we glean it from his unsworn evidence was that he did not commit the offence, that PW2 owed him money in respect of unpaid charcoal he had sold to her, therefore, the charges were fabricated.



3. After analyzing the prosecution evidence, the defence and the law, the trial Magistrate (Z. Abdul, RM) in his judgment dated 26<sup>th</sup> July 2017, framed three issues for determination, namely:
  - a. whether the appellant was positively identified;
  - (b) whether the complainant's age was proved; and,
  - (c) whether penetration was proved. The learned Magistrate answered the above issues in the affirmative and held that the offence of defilement was proved to the required standard and proceeded to convict the appellant. In passing the sentence, the learned magistrate stated:

“I have considered the mitigation by accused. The offence committed is very rampant in this case (sic) and it is the responsibility of this court to impose a deterrent sentence. The accused person is not even remorseful. Even though he is said to be a first offender, there is only one punishment provided by law which I do hereby impose. The accused shall serve life imprisonment.”
4. Aggrieved by both conviction and sentence, the appellant appealed to the High Court at Naivasha in High Court Criminal Appeal No. 34 of 2017 principally faulting the trial Magistrate for finding that the offence against him was proved. After re- evaluating the entire record and the law, Mwongo, J., in the judgment dated 15<sup>th</sup> October 2019 the subject of this appeal, found the appellant's appeal to be devoid of merit and affirmed the trial Court's findings on both the conviction and sentence.
5. In his quest for justice, the appellant is now before this Court in this second appeal seeking to overturn the said judgment citing the following grounds:
  - (a) penetration was not proved;
  - (b) the complainant's age was not proved;
  - (c) crucial witnesses were not called to testify;
  - (d) the learned judge shifted the burden of proof to him and failed to consider his defence which was reasonable and truthful; and,
  - (e) the medical evidence did not corroborate the charge.
6. In his undated supplementary grounds of appeal, the appellant added the following grounds:
  - (a) the life sentence is against the spirit of *the Constitution* and it does not serve the objectives of sentencing listed in paragraph *para\_4 4:1* of the policy Guidelines 2016;
  - (b) the learned judge failed to consider that the legal provision for mandatory life sentence under section 8 (2) of the Act denies courts the room to exercise its discretion and consider the unique circumstances of the case and pass an appropriate sentence, therefore, the sentence offends Article 27 (1), (2) and (4) of *the Constitution*;
  - (c) the learned appellate judge failed to consider his defense. The appellant prays that for orders that:
    - (a) the conviction be quashed and the sentence imposed on him be set aside and he be set at liberty;
    - (b) this Court issues any further orders as may be just and expedient in the circumstances, or,



(c) this Court re- evaluates the evidence and makes an independent finding on both conviction and proper sentence.

7. During the virtual hearing of this appeal on 25<sup>th</sup> March 2025, the appellant appeared in person while Mr. Omutelema represented the State. Both parties adopted their respective written submissions filed in Court.
8. In support of his appeal, the appellant submitted that section 8 (2) of the Act is couched in mandatory terms, thus depriving courts the discretion to determine an appropriate sentence depending on the peculiar circumstances of the case. The appellant maintained that the Supreme Court decision in *Muruatetu & Ano. vs. Republic; Katiba Institute & 5 Others (Amicus Curiae)* (Petition 15 & 16 of 2015 (Consolidated)) [2017] KESC 2 (KLR) (14 December 2017) (Judgment) was made in the context of sections 203 and 204 of the *Penal Code*, unlike his case which was brought under Sections 8 (1) & (2) of the Act. He cited the High Court decision in *Maingi & 5 Others vs. Director of Public Prosecutions & Ano.* [2022] KEHC 1 which held that the Supreme Court in *Francis Karioko Muruatetu & Ano. vs. Republic; Katiba Institute & 5 Others (Amicus Curiae)* [2021] eKLR did not address itself to the constitutionality of mandatory minimum sentences, rather, it clarified that its earlier decision only applied to murder cases and left it open to the High Court to hear and determine any petition that may be brought challenging the mandatory/minimum sentences stipulated for sexual offences.
9. He contended that minimum mandatory sentences are not in tandem with the International Covenant on Civil and Political Rights of 1966, which Kenya ratified in 1972. To him, a sentence that does not provide for other options save for a custodial sentence should be frowned upon because it may not achieve the essential aim of sentencing. Acknowledging that the sentences provided for sexual offences may not be unconstitutional, he urged courts to ensure that sentences passed uphold the dignity of the individual as required by article 28 of *the Constitution*, and urged that the sentencing provisions under the Act must be construed with the necessary adaptations to accord with *the Constitution*.
10. He maintained that while passing sentence, courts must consider the circumstances surrounding the commission of the offence and impose an appropriate sentence. He relied on the Court of Appeal decisions in *Dismas Wafula Kilwake vs. Republic* [2019] eKLR, *Eliud Waweru Wambui vs. Republic* [2019] eKLR, *Regan Otieno Okello* [2022] eKLR, *Maingi & 5 Others vs. Director of Public Prosecution & the Attorney General* (supra) and *Joshua Gichuki Mwangi vs. Republic* [2022] KECA [KLR] [7 October 2022] in support of his plea to this Court to find that it has powers to impose an appropriate sentence depending on the circumstances of the case. He maintained that the reasoning in *Muruatetu & Another vs. Republic; Katiba Institute & 5 Others (Amicus Curiae)* (supra) regarding mandatory death penalty also applies to sexual offences and therefore the mandatory sentence of life imprisonment is unconstitutional.
11. The other ground urged by the appellant is that his defence was not considered. He cited *Justus Kiruthu Mwangi vs. Republic*, Criminal Appeal No. 70 of 2015 (unreported) in support of the holding that the role of the court is to weigh an accused person's defense against the totality of the prosecution evidence to determine whether it is dislodged or not. He maintained that the prosecution failed to dislodge his truthful alibi, and argued that there was a possibility of fabrication because all the witnesses claimed that the complainant was defiled by a known person.
12. Learned counsel for the respondent, Mr. Omutelema, submitted that the prosecution proved all elements of the offence. He maintained that there was overwhelming evidence establishing the ingredients of the offence. In particular, counsel submitted that penetration was established through the evidence of PW1, PW2 and PW3. Counsel maintained that the trial court examined and evaluated the said evidence and rightly concluded that penetration was proved. In addition, this finding was



supported by the medical evidence. Further, the 1<sup>st</sup> Appellate Court re-evaluated the said evidence and concluded that penetration was proved, therefore, the findings by the two courts below on penetration were founded on credible evidence.

13. Mr. Omutelema also submitted that there was overwhelming evidence on the appellant's identification as the perpetrator of the offence. He pointed out that PW1 testified that the appellant was their immediate neighbour, a fact which was also confirmed by the appellant. Further, the incident occurred in broad daylight, and that the child spent a long time in the appellant's house which eliminates any possibility of a mistake. Counsel emphasized that PW1's first account to her mother mentioned the appellant, and her testimony implicating the appellant remained unshaken notwithstanding a very rigorous cross-examination. Further, the two courts below arrived at concurrent findings after they were satisfied that there was no possibility of a mistaken identity. Counsel implored this Court not to disturb the concurrent findings by the two courts below.
14. Regarding the complainant's age, Mr. Omutelema submitted that under Section 8 (1) of the Act, the prosecution is only expected to prove that the complainant is a child aged below 18 years. He maintained that her age was established to be 9 years at the time of the incident. Further, the complainant's mother testified that she was aged 9 years at the time of the incident and presented the child's Clinic Card in which her date of birth is shown as 17<sup>th</sup> March 2007. He added that the Clinical Officer who examined her on 28<sup>th</sup> July 2017 testified that she was about 10 years old.
15. It was counsel's submission that the totality of the above evidence was sufficient to prove that PW1 was a child aged 9 years at the time she was defiled. Further, the Trial Magistrate had the benefit of seeing her in court, and upon evaluating the evidence, he concluded that she was aged 9 years as at the time of the offence. Further, the 1st appellate court re-considered the evidence and found it to be credible. Counsel cited *Safari Charo Koyo vs. Republic* [2017] eKLR and Section 2 of the *Children Act* No. 8 of 2001 (Repealed) in support on proof of apparent age.
16. To further buttress his arguments, Mr. Omutelema cited section 19 of the *Oaths and Statutory Declarations Act* which allows Courts to receive evidence of children of tender age and Section 124 of the *Evidence Act* which requires the evidence of a child of tender years to be corroborated by other material evidence in support thereof implicating the offender. He submitted that the proviso to section 124 of the *Evidence Act* provides that in a criminal case involving a sexual offence, if the only evidence is that of the victim, the court shall receive the evidence and convict if satisfied she is telling the truth. Counsel recalled that the trial magistrate conducted a *voire dire* examination before receiving the evidence of PW1 and he was satisfied that PW1 possessed sufficient intelligence to justify the reception of her evidence.
17. Mr. Omutelema relied on this Court's decision in *Maripett Loonkomok vs. Republic* [2016] eKLR citing *R vs. Braisier* [1779] 1 Leach Vol. 1. Case XC PP 199- 200, a case involving the sexual assault of a girl aged under 7 years in which the court stated that "there is no precise or fixed rule as to the time within which infants are excluded from giving evidence" and submitted that looking at PW1's evidence and her answers to questions put to her in cross-examination, she was cogent and intelligent enough and understood the duty to tell the truth. Counsel also referred to the trial court's records where the trial Magistrate remarked that "she has handled about 25 questions stoically" (see page 12, lines 16 to 17 of the record of appeal).

It was counsel's submission that the said remarks leave no doubt about the child's truthfulness in her testimony.

18. In addition, Mr. Omutelema submitted that the trial court was satisfied that the prosecution witnesses were truthful and credible nor was there any material discrepancies, contradictions or inconsistencies



in their evidence. It was counsel's submission that the trial court was better placed than the appellate courts to assess the credibility of the witnesses and cited this Court's holding in *Joseph Kariuki Ndung'u & An. vs. Republic* [2010] eKLR that "...the trial judge is best equipped to assess the credibility of the witnesses and that it is a principle of law that an appellate court should not interfere with those findings by the trial court which are based on the credibility of the witnesses unless no reasonable tribunal could have made such findings or it is shown that there existed errors of law." (See also *R vs. Oyier* [1985] KLR 3530.

19. Mr. Omutelema also submitted that PW1's evidence was corroborated in material particulars by the evidence of PW2, PW3 and PW4. He maintained that PW2 confirmed that the appellant was Baba Shiro and he was their immediate neighbour. Further, PW3 examined the child and confirmed she was defiled. He relied on the case of *John Otieno Oloo vs. Republic* [2009] KLR and *Karanja & An. vs. Republic* [1990] KLR which explained the nature of unsworn evidence of a child and the required corroboration.
20. Addressing the appellant's submission that the prosecution did not call some crucial witnesses, Mr. Omutelema submitted that as a general principle of law, whether the prosecution should call a witness is a matter within their discretion and an appellate court will not interfere with the exercise of that discretion unless it is shown that some oblique motive influenced the prosecution. (See *Julius Kalewa Mutunga vs. Republic* [2006] eKLR). Counsel also cited *Bukenya & Others vs. Uganda* [1972] EA 549, page 551 in which the predecessor of this Court held that the prosecution has the discretion to decide the material witnesses to call and stated that: (i) the prosecution must make available all witnesses necessary to establish the truth, even though their evidence may be inconsistent; (ii) the court has the right, and the duty to call any person whose evidence appears essential to the just decision of the case; and (iii) where the evidence called barely is adequate the court may infer that the evidence of uncalled witness would have tended to be adverse to the prosecution.
21. Mr. Omutelema argued that in the circumstances of this case, PW4 who investigated the case testified that the appellant was arrested by PC Raphael Mukoko, who was deceased, and, one Kariuki was not called to testify because he could not be traced. Further, the appellant himself told the court that Kariuki committed suicide, therefore, he cannot complain about the failure to call him as a witness. Counsel maintained that the evidence tendered by the prosecution was overwhelming, therefore, the failure to call the said witnesses was not fatal to the prosecution's case.
22. Regarding the appellant's complaint that his defence was not considered, Mr. Omutelema submitted that the appellant made an unsworn statement in his defence and he did not call any witnesses. He denied committing the offence and claimed that he had been framed up because of an old debt of 3 bags of charcoal he sold to PW2. He pointed out that the appellant argued that complainant said she was told by Kariuki to say that he is the one who defiled her. It was his submission that the learned trial magistrate considered the appellant's defence in totality with the rest of the evidence and rightly rejected the same. Further, the learned Magistrate stated that the appellant's alibi lacked details of his whereabouts on the material day and the alleged charcoal debt due from PW2 was not put to her during her cross-examination, nor did his defence shake the prosecution evidence. Further, the 1st appellate court also considered the defence together with the prosecution's case and rightly rejected it. Therefore, this Court should not disturb the findings by the two courts below. In support of the foregoing submission, counsel relied on this Court's decisions in *PNK vs. Republic* [2022] KECA 553 (KLR) and *Meda vs. Republic* [2019] eKLR.
23. We have painstakingly reviewed the record and submissions tendered by the parties while conscious of our limited mandate in a second appeal as provided in Section 361 (1) of the *Criminal Procedure Code*, which is to consider only issues of law and in this regard, severity of sentence is an issue of fact. We are



to accord due deference to the concurrent findings of fact by the two courts below. Although there can be rare exceptions to this practice (in particular, where there has been an error of law in relation to the findings of fact), an appellant must demonstrate to this Court that his or her case falls within exception(s).

24. It is worth clarifying here that the practice of this Court (in not going behind the concurrent findings of fact of the two lower Courts) imposes an added constraint on this Court. That is, it adds an additional hurdle for an appellant to overcome when appealing to this Court. This is for two main reasons. First, the trial court, given its opportunity to see and hear witnesses at first hand, is likely to be in the best position to make findings of fact. Where those findings of fact have been upheld by the first Appellate Court, there is no reason to think that a second appeal court is more likely to be correct about the facts than the two courts below. Secondly, this Court respects concurrent factual findings by the two courts below and appreciates that the trial court is very likely to be in a better position to assess such factual circumstances than is this Court. Asserting the foregoing propositions of the law, the Supreme Court in *Republic vs. Mwangi; Initiative for Strategic Litigation in Africa (ISLA) & 3 Others (Amicus Curiae)* [2024] KESC 34 (KLR) stated:

“Thus, the Court of Appeal’s jurisdiction on second appeals is limited to only matters of law and it could not interfere with the decision of the High Court on facts unless it was shown that the trial court and the first appellate court considered matters they ought not to have considered, failed to consider matters they should have considered, or were plainly wrong in their decision when considering the evidence as a whole. In such a case, such omissions or commissions would be treated as matters of law. Consequently, the Respondent’s appeal on the grounds that his sentence was harsh and excessive was not one that the Court of Appeal could lawfully determine as it fell outside the purview of the Court of Appeal’s jurisdiction.”

25. It is important to stress that a proper appreciation of evidence is the most important part of the judicial function of a court. The soundness of findings of fact and the quality of the judgment depends on whether or not the court properly appreciated the evidence and applied the law to the facts before it.
26. Upon considering the appellant’s grounds of appeal and the parties’ submissions, we find that the following issues fall for determination:
- (a) whether the sentence imposed upon the appellant is unconstitutional;
  - (b) whether the appellant’s defence was considered,
  - (c) whether the elements of the offence were proved;
  - (d) whether the appellant was properly identified as the offender,
  - (e) whether the prosecution failed to call crucial witnesses.
27. First, we will address the appellant’s argument that the mandatory sentence of life imprisonment imposed upon him is unconstitutional. This argument is attractive because ordinarily arguments citing violation of *the Constitution* or the Bill of Rights attract a heightened degree of scrutiny because of the supremacy of *the Constitution*. However, this issue was not raised before the first appellate court. In addition, the Supreme Court in *Republic vs. Mwangi; Initiative for Strategic Litigation in Africa (ISLA) & 3 Others (Amicus Curiae)* [2024] KESC 34 (KLR), was clear that so long as the penalties prescribed under the *Sexual Offences Act* remain in our law books, courts must impose them. Also, the Apex Court recently reiterated the same position in *Republic vs. Ayako* [2025] KESC 20 (KLR) and *Republic vs. Manyeso* [2025] KESC 16 (KLR). The import of the foregoing decisions is that the



authorities cited by the appellant in support of his argument are no longer good law. Therefore, the appellant's ground of appeal challenging the constitutionality of the sentence collapses.

28. Next, is the question whether the appellant's defence was considered. To start with, by requiring a trial court to consider and weigh the defence tendered by an accused person does not mean that the ensuing judgment must also include a complete embodiment of all evidence led in support of the defence as if it comprises a complete transcript of the proceedings. In order to determine whether there is any merit in the appellant's argument that his defence was not considered, this court must consider the evidence led in the trial court, juxtapose it against the judgment by the trial court, and determine whether there is any basis for interfering with the said judgment. The best indication that a court has applied its mind in the proper manner is to be found in its reasons for the judgment including its reasons for the acceptance and the rejection of the respective evidence.
29. In his unsworn evidence, the appellant claimed he was framed up, and that he had sold three bags of charcoal to the complainant's mother for which she failed to pay as agreed. He also claimed that the complainant had been told by a Mr. Kariuki to say that it was the appellant who defiled her. The trial magistrate considered this defence and the totality of the prosecution evidence and rejected it. The trial court had the benefit of seeing and hearing the witnesses unlike this court. The first appellate court re-considered the evidence and agreed with the trial court's findings. These are matters of fact. There are concurrent findings of fact by the two courts below on these issues. It has not been shown to us that the two courts below failed to take into account relevant considerations or considered irrelevant considerations. We do not think it is appropriate for us to go behind the findings of fact by the trial court found proven and which findings were upheld by the first appellate court.
30. The other argument urged by the appellant is that the elements of the offence were not proved. To sustain a conviction in a case of this nature, the prosecution must prove by way of evidence, three ingredients beyond reasonable doubt. These are:
- (a) penetration,
  - (b) that the complainant is a child, and,
  - (c) identify the accused person as the assailant.
31. The Act defines penetration as "the partial or complete insertion of the genital organs of a person into the genital organs of another person." In fact, it is not necessary for ejaculation to take place. PW1's evidence was that she was outside their house on the material day, playing with her siblings when "baba Shiro" called her and asked her whether her father or mother were present and she said no. He called her into the house, locked the door, put her on his laps and defiled her, then wiped her and told her not to cry or tell her mother. Her evidence was corroborated by PW2 and the Clinical Officer, PW3 who stated:
- "I examined her and noted that her hymen was broken and bruises on the vaginal wall. She had a foul smelling discharge. She was taken to the laboratory. No spermatozoa in the urine, she was not pregnant and high vaginal swab was negative- no puss cells. In my opinion she had been defiled, I examined the minor three days after the incident. I then signed the P3 form which I wish to produce as an exhibit."
32. In our view, the above evidence was clear, overwhelming and more important, the appellant's defence did not dislodge it. We find no reason to depart from the concurrent findings by the two courts below that penetration was proved to the required standard. In any event, whether or not penetration was proved is a matter of fact. The medical evidence clearly stated so. This evidence is to be considered



together with the PW1 and PW2's evidence. We find no reason to depart from the concurrent findings by the two courts below.

33. Regarding the complainant's age, the complainant's mother testified that PW1 was aged 9 years at the time of the incident. She presented the PW1's Clinic Card in which her date of birth is shown as born on 17<sup>th</sup> March 2007. PW3 (the Clinical Officer) testified that when she examined the child on 28<sup>th</sup> July 2017, she was about 10 years old. The trial court had the benefit of observing the child in court and hearing the witnesses. We find no reason to suggest that PW1 was not a child aged below 11 years within the meaning of section 8 (1) and (2) of the Act, nor has any grounds been laid before us to persuade us to interfere with the concurrent findings by the two courts below.
34. The third ingredient is whether the appellant was positively identified as the offender. In this case, we are dealing with evidence of recognition which is generally considered a more reliable form of identification than the identification of a stranger. This is because previous knowledge of the person being identified significantly increases the reliability of the identification. PW1 in her evidence stated that she knew the appellant. She stated "I know he is "Baba Shiru" he lives near us." PW1 reiterated this position during her cross- examination. Two fundamental conclusions can be drawn from the complainant's evidence. One, she not only knew the appellant, but she actually knew him by the name he was known, "baba shiro." Two, the appellant was a neighbor, therefore, he was not a stranger. This evidence was supported by PW2, who in her evidence had this to say. "I know the accused person he is my neighbor. He is called Joseph Njoroge and also Baba shiro." This evidence on identification is to be weighed against the appellant's defence. In his unsworn evidence, the appellant never thought it fit to rebut the evidence tendered by PW1 and PW2. He did not deny the fact that he was a neighbor and that both PW1 and PW2 knew him. He did not dispute that he was called "baba Shiro." We find no reason to fault the two courts below for accepting this evidence. We can only add that the recognition of a known individual by an eyewitness is a more reliable form of identification evidence compared to the identification of an unfamiliar person due to the witness's prior acquaintance with the recognized individual. Accordingly, it is our finding that this ground of appeal fails.
35. The appellant claims that crucial witnesses were not called. As was correctly submitted by Mr. Omutelema, PW4 testified that the appellant was arrested by PC Raphael Mukoko who was already deceased as at the time of the trial. Further, one Kariuki was not called to testify because he could not be traced. Actually, the record shows that the appellant himself told the court that Kariuki committed suicide. This is the same Kariuki the appellant is complaining was not availed to testify. These two witnesses could not have been called from their graves to testify.
36. In any event, Section 143 of the *Evidence Act* provides that "No particular number of witnesses shall in absence of any provision of the law to the contrary be required for proof of any fact." As was held by this Court of Appeal in *Julius Kalewa Mutunga vs. Republic* [2006] KECA 79 eKLR as a general principle of law, whether a witness should be called by the prosecution is a matter within their discretion and an appeal court will not interfere with the exercise of that discretion unless, for example, it is shown that the prosecution was influenced by some oblique motive. The prosecution is not expected to call a superfluity of witnesses. (See *Bukenya & Others vs. Uganda* (supra).
37. It is also important for us to underscore that an adverse inference will only be made by the court if the evidence by the prosecution is not or is barely adequate, but not where the evidence tendered is sufficient to prove the particular matter in issue or the entire case. The evidence of the missing witness must be such as would have elucidated a matter. The appropriate inference to draw is a question of fact to be answered by reference to all the circumstances of the case. It has not been shown that there are gaps in the prosecution evidence which could have been filled by the uncalled witnesses. This being the position, we find no merit in this ground of appeal.



38. Arising from our conclusions on each and every issue discussed above, the inevitable conclusion is that this appeal is devoid of merit. Accordingly, we dismiss it in its entirety.

**DATED AND DELIVERED AT NAKURU THIS 4<sup>TH</sup> DAY OF JULY, 2025.**

**J. MATIVO**

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**JUDGE OF APPEAL**

**M. GACHOKA C. Arb, FCI Arb.**

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**JUDGE OF APPEAL**

**G. V. ODUNGA**

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**JUDGE OF APPEAL**

I certify that this is a true copy of the original.

Signed.

DEPUTY REGISTRAR.

