



**JN v Republic (Criminal Application E075 of 2024)
[2024] KECA 1378 (KLR) (8 October 2024) (Ruling)**

Neutral citation: [2024] KECA 1378 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CRIMINAL APPLICATION E075 OF 2024
MA WARSAME, JA
OCTOBER 8, 2024**

BETWEEN

JN APPLICANT

AND

REPUBLIC RESPONDENT

(An application for extension of time to file a notice of appeal, against the judgment of the High Court at Naivasha (Meoli J.) dated 18th July, 2017 in HCCRA No. 36 OF 2015)

RULING

1. The applicant, (JN) was convicted of incest contrary to section 20(1) of the *Sexual Offences Act* and sentenced to life imprisonment in Criminal Case No. 1613 of 2014 at Naivasha. His appeal against conviction and sentence was dismissed by the High Court. However, he failed to lodge his notice of appeal within the statutory period 14 day period as espoused in the Rules of this Court and seeks to enlarge the time to appeal.
2. The reason for delay in filing the instant application has been attributed to the failure of the court to supply the applicant with the original court proceedings of the trial court and the judgment. The applicant maintains that the appeal is arguable and has a high chance of success and faults the learned Judge for failing to consider the existence of a grudge between the applicant and the complainant’s mother, that penetration was not proved, and that the no documentary evidence was provided to prove the complainant’s age.
3. The applicant’s contends that the delay in filing the appeal was occasioned by impediment in obtaining the trial court’s proceedings and judgment. This reason holds no sway as the mere fact that there is a judgment from the 1st appellate Court implies that the applicant was supplied with the requisite proceedings and judgment from the trial court. In any event, even if the applicant meant to complain of lack of original proceedings from the High Court, I find that no evidence of request for the certified



copy of the proceedings has been attached to explain the delay of seven years which is extremely inordinate.

4. Consequently, I decline to exercise my discretion in favour of the applicant and dismiss the application.

DATED AND DELIVERED AT NAKURU THIS 8TH DAY OF OCTOBER, 2024.

M. WARSAME

.....

. JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR

