**PKY v Republic (Criminal Appeal E008 of 2023)**
**[2025] KEHC 3937 (KLR) (28 March 2025) (Judgment)**

Neutral citation: [2025] KEHC 3937 (KLR)

**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT ITEN**

**CRIMINAL APPEAL E008 OF 2023**

**JRA WANANDA, J**

**MARCH 28, 2025**

**BETWEEN**

**PKY ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

## JUDGMENT

1. This Appeal arises from the conviction and sentencing of the Appellant in Iten Senior Principal Magistrates' Criminal Case No. E059 of 2022.

2. In the said case, the Appellant was charged with the offence of incest by a male in violation of Section 20(1) of the *Sexual Offences Act*, No. 3 of 2006. The particulars of the offence were that on 23/11/2022 at around 10.00 am at [.....] sub-Location of Elgeyo Marakwet County, he caused his penis to penetrate the vagina of WJK, a girl under the age of 18 years whom he knew to be his daughter.

3. The Appellant also faced the alternative charge for the offence of committing an indecent act with the same child contrary to Section 11(1) of the *Sexual Offences Act* No. 3 of 2006. The particulars were that on the same date, at the same time and place, he committed an indecent act with the child (girl) namely WJK aged 12 years by unlawfully touching her private parts, namely vagina and breast.

4. The Appellant pleaded not guilty and the case proceeded to full trial wherein the prosecution called 6 witnesses. After close of the prosecution case, the trial Court found that the Appellant had a case to answer and placed him on his defence. The Appellant testified on his own behalf and did not call any other witnesses. By the Judgment delivered on 12/07/2023, he was convicted on the main charge of incest, and sentenced to serve 60 years' imprisonment.

5. Aggrieved with the decision, the Appellant instituted this Appeal vide the self-drawn Petition of Appeal filed on 26/07/2023, and which is premised on the following grounds:

i. That the learned trial magistrate erred both in law and fact by failing to find that the prosecution witnesses' evidence was contradictory, inconsistent and unreliable evidence to be relied in a court of law to warrant a conviction.

ii. That the learned trial magistrate erred in both law and fact while basing his judgment on medical evidence that was insufficient and inconclusive and could not meet the threshold as required by law.

iii. That the learned trial magistrate erred in both law and fact by failing to find that the prosecution had failed to demonstrate a clear nexus linking the appellant to the commission of the offence in question.

iv. That the learned trial magistrate erred in both law and fact in failing to find that the prosecution had failed to prove the age of the victim/complainant through sufficient evidence.

v. That the imposed sentence under the circumstance is harsh and excessive.

**Prosecution evidence before the trial Court**

6. PW1 was the complainant. She testified that she was a class 8 pupil aged 12 years old, as she was born on 09/10/2011. She referred to her Birth Certificate and also her father's (Appellant) National Identity Card. She testified that on 23/11/2022 at 8.00 am, she came home from school as she is in boarding school and found her father (Appellant) and younger sister at home, she found the Appellant outside and who told her to go inside the house with him and that she refused but he threatened to kill her. She stated that the Appellant demanded that she goes inside with him to show him her results, he told her to go to his bedroom and when they entered the bedroom, he pulled her hand and raped her. He stated that the Appellant pulled her to the bedroom and told her to lie on his bed and removed her pant, that he never undressed her but just pulled up her dress and raped her, he put his penis into her vagina and that the ordeal took 30 minutes. She stated that in the evening, the Appellant wanted to do it again as her sister and mother were in the kitchen as she was reading in the sitting room, and that he followed her and told her that he wanted to show him something on phone but when she went, she found nothing. She testified that she later went to one P's (PW3) home and narrated to her what had transpired, PW3 took her to hospital in the morning, where she was treated, she later reported the matter to the police and was issued with a P3 form. In cross-examination, she testified that she never screamed because the Appellant threatened her, and she informed PW3 because she was afraid to inform her mother. In re-examination, she stated that her mother (PW2), one B and L were at home when the Appellant tried to defile her.

7. PW2 was ACC, the Appellant's wife and mother to the complainant. She testified that on 23/11/2022 at 8.00 pm she was at home, she found the complainant cooking supper and her last-born child was asleep, held by her father, she told the complainant to take the child to sleep but she appeared uneasy and she had to order to do so. She stated that they were all in kitchen when she heard the Appellant calling the complainant who responded from behind the kitchen and the Appellant followed her when the complainant took the baby to sleep. She testified that while still in the kitchen, her in-law, one EK, came and called her and asked PW2 where her husband was, and she also asked about the complainant, she also asked PW2 whether she had beaten the complainant because the complainant was crying. She stated further that EK told her that the complainant had told EK that her father (Appellant) had raped her. According to PW2, she did not again see the complainant that night as she did not find her when she returned to the house, that she (complainant) spent the night at the home of ER, and in the morning, the complainant told her that the Appellant had raped her. In cross-examination, she stated

that the Appellant was planning to escape after the matter came out as he had remarked that the case facing him was a serious one.

8. PW3 was PC. She testified that the Appellant is her brother-in-law (her husband's brother) and thus the complainant is her niece. She testified that on 24/11/2022, the complainant's mother (PW2) went to her house and informed her that the Appellant had defiled the complainant and that the complainant had spent the night at the home of ER. She stated that she later went to ER's house where she found her (PW3) husband and the complainants' mother (PW2), the complainant was called and when asked about the issue, she stated that the Appellant had defiled her on numerous occasions, they called the neighbours and the Chief, the complainant was taken to hospital, and they later reported the matter to the police and recorded statements.

9. PW4 was Luka Kiptoo Kosgey, a Senior Clinical Officer attached at the Chebyemit sub-County Hospital. He testified that on 23/11/2022, the complainant came for examination with a history of incest, on examination, she was found to have inflammation of the labia minora and tenderness on the examination finger, and there was presence of pubic hair on her vagina. According to him, he made the conclusion that sexual intercourse took place as there was penetration. He then produced the P3 Form. In cross-examination, he stated that he did not examine the Appellant and nor does he conduct DNA tests.

10. PW5 was Abraham Chemoi Chemisito, the Assistant Chief, Kilima sub-Location. He testified that the Appellant is a resident of his area of jurisdiction and he knows him well, and the complainant is a pupil at [xxxxxxx] School. He stated that on 24/11/2022 at 8.30 am, he received a phone call from his superior informing him that the Appellant had defiled his daughter (complainant), he visited the scene and when he went to the home of the Appellant's brother, one L, he found the village elder and members of the public, that the Appellant had been arrested by members of the public, and re-arrested him.

11. PW6 was Police Constable Martin Mabonga attached at Chebyemit Police Station. He testified that on 24/01/2022 at 1.30 pm, he received the complainant and her aunt (PW3), the complainant reported that on 23/11/2022 at around 10.00 am, she was at home when her father (Appellant) requested to see her end term results, that when she went inside the house to pick the report card, the father (Appellant) followed her and grabbed her then threw her on the bed and defiled her. He stated that he recorded statements and told them to go hospital, and he issued them with a P3 Form. He stated further that he obtained the complainant's certificate of birth and also the Appellant's Identity Card both which he produced. He also testified that he had also requested the area Assistant Chief to help him re-arrest the Appellant and that he later charged him for the offence. In cross-examination, he stated that the complainant's certificate of birth bears the Appellant's name as the father, and that he obtained the Appellant's Identity Card from PW2 who is the Appellant's step-mother as the complainant's biological mother had separated from the Appellant.

**Appellant's defence evidence before the trial Court**

12. The Appellant testified as DW1. Since he gave an unsworn statement, he was not cross-examined. He testified that on 23/11/2022, he had gone for a casual job at a school at 7.00 am with one Kemboi and Babu, which job he finished at 5.00 pm and went back home where he found his wife and children at home, he later went to the shop to buy a set for one of the children and came back at 7.30 pm, and that their neighbour, Luke, joined them for supper. He stated that he was carrying his 4-year-old child as she slept, the complainant's mother told the complaint to go to sleep and take the child but the complainant refused, he remained with Luke and Babu and later received a call which he went outside to receive, he called the complainant but she did not respond, her mother (PW2) responded but they

took very long and he then took his phone to a neighbour for charging and that after 30 minutes, the two men left and he remained with his wife (PW2). He testified further that later, his in-law came and asked for the complainant but they could not find her, he went out to look for her and when they could not find her, he called the Chief to notify him of her disappearance. He stated further that the Chief called him at 4.00 am to notify him that the complainant had stated that she had been defiled by the Appellant, that later, Kemboi and Edwin came and arrested him and took him to the police station. He insisted that he had been framed and denied that he committed the offence.

**Hearing of the Appeal**

13. The Appeal was canvassed by wayof written submissions. The Appellant filed his Submissions though the firm of Messrs Oduor, Munyua & Gerald Attorneys LLP, which firm appears to have taken over the conduct of the Appeal, although I have not come across any Notice of Appointment. On its part, the State filed on its Submissions through Prosecution Counsel Calvin Kirui. Both sets of Submissions were filed on 4/07/2024.

**Appellants' Submissions**

14. Regarding the duty of an appellate Court and the Appellant's contention that the Prosecution did not establish its case beyond reasonable doubt, Counsel cited several authorities, which however, considering the high number listed, I will not recount.

15. Counsel then submitted that PW4 (clinical officer) confirmed that there were no tears on the vaginal wall of whatsoever nature when examination was conducted the next morning. According to Counsel, in normal circumstances, the hymen or vagina tears would always be present and fresh the day after the alleged defilement. He submitted further that PW4 concluded that "penetration" had occurred based on the inflamed labia minora whereas, according to Counsel, an inflamed labia minora can be caused by many other factors, including Sexual Transmitted Infections (STI), hormonal imbalance, or dirt, among other factors. He submitted further that in this case, the trial Court failed to expressly indicate how the complainant's evidence was corroborated. According to Counsel, the evidence of PW1 and PW4 did not corroborate each other as from the P3 Form, there was no tears on the vaginal wall upon examination yet the examination was conducted the next morning and further, that the assumption by the examining doctor that sexual intercourse had been taking place over a period of time was never substantiated.

16. Regarding sentence, Counsel submitted that 60 years imprisonment was too harsh in the circumstances and that the same should be reviewed downwards taking into account the age of the Appellant and that, in any case, the essence of sentence is not to punish but to deter, correct and rehabilitate a convicted person

**Respondent's Submissions**

17. In his Submissions, Prosecution Counsel cited Section 20(1) of the *Sexual Offences Act*, and the case of DMK v Republic [2022] eKLR, and also listed the ingredients of the offence of incest.

18. Regarding the first ingredient, namely, "proof that the offender is a relative of the victim", he pointed out that the same does not form part of the Appellant's grounds of Appeal and basically submitted that, in any event, the relationship between the Appellant and the complainant was not disputed during trial and even in his Appeal.

19. On the second ingredient, namely, "penetration", he cited the definition contained in Section 2 of the Act and submitted that the complainant testified that the Appellant took her into the bedroom

and told her to lie on the bed, pulled her dress up and removed his clothes, then put his penis into her vagina and defiled her for 30 minutes. In answering the question whether that evidence required corroboration, he cited Section 124 of the *Evidence Act* and urged that the complainant's evidence of "penetration" was corroborated by that of the clinical officer (PW4) and also the medical documents.

20. Regarding "age", he submitted that the same was proved by the certificate of birth which the Appellant did not challenge. Regarding the allegation of existence of contradictions and inconsistencies in the prosecution evidence, Counsel averred that the same is not substantiated. He urged that the claim that the trial Court relied on the medical evidence that was insufficient or inconclusive is not true because the medical evidence only corroborated the evidence of the complainant as "penetration" was already proved through her evidence. On the allegation that there was no nexus established linking the Appellant to the commission of the offence, he urged that PW1, PW2 and PW3 all linked the Appellant to the offence, and the Appellant was arrested by members of the public and handed over to the area chief who testified that the Appellant tried to negotiate an out of Court settlement. According to him therefore, "identification" of the Appellant was proved.

21. On the issue of the "sentence", he submitted that the trial Court was careful in considering the Appellant's mitigation, that "aggravating factors" included the tender age of the complainant and the extensive damage occasioned to her by the Appellant who is her parent and the person charged with parental protection and responsibility, and that it is therefore clear that the Court's discretion was exercised judiciously.

**Determination**

22. As a first appellate forum, this Court is obligated to revisit and re-evaluate the evidence afresh, assess the same and make its own conclusions bearing in mind that the trial Court had the advantage of hearing and observing the demeanour of the witnesses (see Okeno vs Republic (1972) E.A 32).

23. The issues that arise for determination in this Appeal are the following;

    i. Whether the prosecution proved the charge of incest to the required standard.

    ii. Whether the sentence was lawful and/or excessive.

24. I now proceed to analyze and determine the said issues.

    i. Whether the offence of incest was proved

25. The offence of incest is provided for under Section 20(1) of the *Sexual Offences Act* as follows:

> " Any male person who commits an indecent act or an act which causes penetration with a female person who is to his knowledge his daughter, granddaughter, sister, mother, niece, aunt or grandmother is guilty of an offence termed incest and is liable to imprisonment for a term of not less than ten years, provided that if it is alleged in the information or charge that the female person is under the age of eighteen years, the accused person shall be liable to imprisonment for life and it shall be immaterial that the act which causes penetration or the indecent act was obtained with the consent of the female person."

26. To prove the offence of incest therefore, the following ingredients must be met: proof that the offender is a relative of the victim, penetration, identification of the perpetrator and for the purposes of the sentence to be imposed, the age of the victim.

27. Regarding "proof that the offender is a relative of the victim", I have not come across any challenge by the Appellant disputing the statement that he was indeed the complainant's father. The complainant's

certificate of birth produced in evidence also expressly bears the name of the Appellant as the father. I note however that there was some indication in the Investigating Officer's (PW6) testimony that the Appellant may not have been the complainant's biological father, but her step-father. In respect to a relationship of such nature, even assuming that this was the case herein, Section 22 of the *Sexual Offences Act* provides that:

> " In cases of the offences of incest, brother and sister includes half-brother, half-sister and adoptive brother and adoptive sister and a father includes a half father and an uncle of the first degree and a mother includes a half mother and an aunt of the first degree whether through lawful wedlock or not ..."

28. In this case, there was no challenge against the statement that the Appellant is married to the complainant's mother (PW2) and that they were all living together as one family, with the couple's other children. In the circumstances, even if the Appellant is not the biological father, still he is a "step-father" of the complainant. It has now been generally accepted, as reiterated in various judicial authorities, that the term "step-father" is synonymous with and/or has the same meaning as the term "half-father" adopted in Section 22 aforesaid.

29. In respect to "penetration", Section 2 of the *Sexual Offences Act* defines the term to mean:

> " the partial or complete insertion of the genital organs of a person into the genital organs of another person".

30. In this case, the Appellant alleges that the trail Court erred, ostensibly because it relied on the sole testimony of the complainant. I may state that in respect to an allegation of this nature, the proviso to Section 124 of the *Evidence Act* permits a trial Court, in cases involving sexual offences, to convict on the evidence of a sole witness without the need for corroboration, where such witness is the victim of the sexual offence. The Section provides as follows:

> " Notwithstanding the provisions of section 19 of the Oaths and Statutory Declaration Act, where the evidence of the victim admitted in accordance with that section on behalf of the Prosecution in the proceedings against any person for an offence, the accused shall not be liable to be convicted in proceedings against him unless it is corroborated by other 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 offense, 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."

31. The trial Magistrate acknowledged this provision and, in her Judgment, she stated that she was satisfied as to the truthfulness of the complainant. As it is the trial Court that had the opportunity to assess the conduct and demeanour of the witness, save where there is demonstration of clear contrary evidence, this Court would not be justified to purport to trash the trial Court's findings and conclusion that the complainant was "telling the truth".

32. In any event, I, too, find the complainant's testimony on the issue of penetration to have been credible, candid, consistent and plausible. First, no motive was advanced that could have influenced the complainant to falsely implicate the Appellant (her own father) for such a grave offence. She also claimed that the Appellant attempted to defile her once more in the evening, and there is independent witness testimony, including that of the Appellant himself, that indeed, the complainant "ran away"

from home that night, presumably because of that "second attempt" and went to spend the night at a neighbour's house whom she confided in about what her father had done to her. There is also evidence that the complainant also spoke to various other people about the incident. One of these was the complainant's aunt, who is the one who approached the complainant's mother and informed her about the complainant's allegation that she had been defiled by the Appellant. According to the mother (PW2), when she eventually asked the complainant about the matter, the complainant told her exactly the same story.

33. The testimonies of PW3 and PW5 also indicate that when the issue arose, some kind of a sit-in was convened and which involved, among others, close neighbours, the Chief, village elder and also relatives of the Appellant's family, including the Appellant's brother, his sister-in-law, and the complainant's mother. The testimonies were to the effect that the complainant was summoned before that meeting and when interrogated about the allegations, she yet again reiterated the same, and even added that the Appellant had been regularly defiling her. It is after this meeting that the matter was reported to the police and the complainant taken to hospital for examination. Further, according to the complainant's mother (PW2), the Appellant, when the story blew out, told her of his intention to "disappear". Considering all the above circumstances, I do not find any indication that the complainant framed the Appellant or was "coached" or influenced by any third party to falsely accuse the Appellant of committing the act.

34. For the above reasons, I do not agree with the Appellant's Counsel that the complainant's testimony was not corroborated. The ample observations made above demonstrates that the other witnesses did sufficiently corroborate the testimony.

35. I have also keenly studied the questions asked by the Appellant to the complainant during cross-examination, and find that the Appellant did not ask questions that directly addressed the grave allegation that he lured the complainant into his bedroom, purportedly for the complainant to show him her results, and defiled her when the complainant, a boarding school pupil, returned home from school in the morning. Instead, he skirted around these allegations and inexplicably dwelt on matters that happened much later in the evening of the same day when according to the complainant, he again attempted to defile her. Since the act of "penetration" alleged in the charge sheet was the one that is said to have occurred earlier in the morning at around 10.00 am, there is no explanation why the Appellant would opt to avoid the opportunity to shake the complainant's testimony on the relevant matter. He claimed to have left home for some manual job early in the morning accompanied by one Babu and Kemboi. He however did not explain whether he made any attempt to have these two called to testify to confirm that alleged timing. In my view, he did nothing at all to substantiate this alleged alibi defence.

36. In the circumstances, it is my view that, even if it were to be argued that what was on record was a single witness evidence, the same to have been sufficient to convict.

37. Nonetheless, I have also carefully interrogated the evidence tendered by the clinical officer (PW4), who testified that he confirmed, upon examining the complainant, that there was "penetration". The entry he made in the P3 Form is that the complainant "looked depressed, terrified, crying and demeanour", and that the examination revealed "an inflamed labia minora" and "tenderness on examination finger of the vaginal orifice" and "presence of pubic hair on the vagina". According to him, in medical terms, the above findings constituted "sufficient evidence of defilement and indeed sexual intercourse had been taking place over a period of time". PW4's medical expertise and competence to make the said conclusions was not challenged or controverted and no reason was also given as to why he could be motivated to make deliberate false conclusions against the Appellant.

38. In the circumstances, I find no reason to fault the trial Magistrate for accepting the medical evidence as also corroborating the complainant's testimony.

39. The issue of "identification" was also not expressly raised as a ground of appeal. In any case, it is not in dispute that the complainant was very familiar with the Appellant as he was her father. She was emphatic that it was the Appellant (her own father) who had defiled her, and had in fact been doing so for a long time. The identification was therefore one of "recognition", and which is accepted to be the best form of "identification" in criminal cases.

40. The "age" of the complainant has also not been expressly disputed. In any case, the complainant's certificate of birth produced in evidence indicates that she was born on 09/10/2011. The offence having said to have been committed on 23/11/2022, it means that the complainant was about 11 years old at the time of the offence. It is therefore evident that the age of the deceased as being a minor, below the age of 18 years, was proved.

41. Having therefore considered the evidence tendered before the trial Court and the testimonies of the witnesses, I cannot find any justifiable ground to hold that the trial Court erred in convicting the Appellant. There is therefore no reason, in my view, to find that the prosecution did not prove its case beyond reasonable doubt.

**Whether the sentence was justified**

42. In this case, it was proved that the complainant was a 12 years old primary school-girl. As already stated, Section 20(1) of the *Sexual Offences Act* provides that a person convicted of the offence of incest, where the victim is under 18 years of age, is liable to life imprisonment. The Appellant was sentenced to 60 years imprisonment. It is therefore clear that the sentence imposed by the trial Court was within the law. This observation does not however bar this Court from determining the issue whether the sentence was manifestly excessive or harsh.

43. The Supreme Court, in the case of Francis Karioko Muruatetu and Another vs Republic [2017] eKLR, guided that, in re-sentencing by the High Court, the following mitigating factors would be applicable; (a) age of the offender; (b) being a first offender; (c) whether the offender pleaded guilty; (d) character and record of the offender; (e) commission of the offence in response to gender-based violence; (f) remorsefulness of the offender; (g) the possibility of reform and social re-adaptation of the offender; and (h) any other factor that the Court considers relevant.

44. The sentence meted out on an offender must therefore be commensurate to the blameworthiness of the offender and before settling on a sentence, the Court must consider the facts and the circumstances of the case in its entirety. In restating the above principles, the Court of Appeal in the case of Thomas Mwambu Wenyi Vs Republic (2017) eKLR quoted the decision of the Supreme Court of India made in the case of Alister Anthony Pereira Vs State of Mahareshtra where it was held as follows:

> "
>
> "70. Sentencing is an important task in the matters of crime. One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no strait jacket formula for sentencing an accused on proof of crime. The courts have evolved certain principles: twin objective of the sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts

and circumstances of each case and the court must keep in mind the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances.

71. The principle of proportionality in sentencing a crime doer is well entrenched in criminal jurisprudence

As a matter of law, proportion between crime and punishment bears most relevant influence in determination of sentencing the crime doer. The court has to take into consideration all aspects including social interest and consciousness of the society for award of appropriate sentence."

45. Similarly, in the case of Daniel Kipkosgei Letting Vs. Republic [2021] eKLR, the Court of Appeal stated as follows:

> " ..... we observe that the purpose and objectives of sentencing as stated in the Judiciary Sentencing policy should be commensurate and proportionate to the crime committed and the manner in which it was committed. The sentencing should be one that meets the end of justice and ensures that the principles of proportionality, deterrence and rehabilitation are adhered to. ....."

46. Applying the above principles to the facts of this case, I note that in sentencing the Appellant, the trial Court remarked as follows:

> "I have considered the offence, the mitigation. This offence is rampant in this region and having considered that the minor was aged 12 years and life sentence was declared constitutional, I hereby sentence you to serve (60) sixty years' imprisonment. .....".

47. I have looked at the record and confirmed that indeed the Appellant was given the opportunity to mitigate, which he did. The Prosecution also informed the trial Court that the Applicant was a 1st offender. The crime of incest, particularly where the victim is a minor, is also one of the most abominable offences known under Kenyan law and the society in general, and for this reason, it is always severely punished. The Appellant was the minor's father and was therefore the same person expected to protect her and provide her with a sense of security. He, instead, abused the trust that was bestowed upon him by the society. He took advantage of his own daughter and committed a heinous crime which occasioned and will no doubt, continue to occasion, severe trauma and suffering to the child. Considering the horror that the child went through, she will definitely experience lifelong effects and will suffer the scars of the assault for the rest of her life

48. Nevertheless, I find the existence of some "mitigating factors" which prompt me to deem it necessary to give the Appellant the opportunity to reform while in prison and thereafter to be released to achieve some social re-adaptation. I believe that after a reasonable prison term, the Appellant will have suffered sufficient retribution for his actions and will be ready for rehabilitation into the society. He was also a first offender. I also note from the record that the Appellant is about 40 years, a most productive age. Although the offence he was convicted of merits his being put away for a long time, I believe that retribution will be best achieved, not by incarcerating him for an unreasonably long period of time, but by giving him a chance to come out of jail alive at some point in his life. At 40 years, the sentence of 60 years imposed by the trial Court severely limits the chances of the Appellant completing the sentence during his lifetime. Taking into account all the recounted circumstances, the impact of the offence on the victim and also the Appellants' mitigation, I trust that a sentence of 30 years imprisonment shall suffice.

**Final Orders**

49. In the circumstances, I make the following Orders:

    i. The Appeal against conviction fails and the same is upheld.

    ii. The sentence of 60 years imprisonment imposed by the trial Court against the Appellant is however set aside and substituted with a sentence of 30 years imprisonment.

**DELIVERED, DATED AND SIGNED AT ELDORET THIS 28TH DAY OF MARCH 2025**

**.....**

**WANANDA J. R. ANURO**

**JUDGE**

Delivered in the presence of:

Appellant present (virtually from Eldoret Main Prison)

Mr. Oduor for the Appellant

Ms. Mwangi for the State

Court Assistant: Brian Kimathi